

APPENDIX C

PUBLIC COMMENTS and AGENCY RESPONSE SUMMARY



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Introduction

The agencies received approximately 1200 pieces of correspondence during the comment period for the Draft Supplemental Environmental Impact Statement (SEIS). Substantive comments were extracted from the correspondence verbatim and entered into a database. The comments addressed in this appendix were selected from the database to represent the full range of comments received. The representative comments are usually word for word quotes from the comment extracts. Grammar, spelling, usage, acronyms and jargon have not been corrected in these comments.

In this Appendix, the Proposed Action and Alternative A are referred to collectively as “the action alternatives” or “the proposed amendment.”

Request for Comment Period Extension

Comment: We are writing to request an extension of the comment deadline for the Aquatic Conservation Strategy (ACS) Draft Supplemental Environmental Impact. We have extensive experience with Northwest Forest Plan implementation and are very concerned that the current deadline of July 10th does not allow adequate time for full consideration of the proposal.

Given that the Northwest Forest Plan is a complex, science-based strategy, we believe it is critical that a broad based and thorough analysis by a variety of interests and disciplines occurs regarding the proposed changes to the Aquatic Conservation Strategy before the Draft SEIS comment deadline expires. We do not believe that this can happen by the 10th of July, and the result may well be a problematic final proposal. We are requesting that the comment period be extended until September 1, 2003.

The changes proposed in the Draft SEIS are likely to have real on-the-ground and significant adverse impacts to aquatic systems. Any such changes require a full consideration of the implications, and this [takes] a lot of time.

There are also many other major changes to the Northwest Forest Plan and federal environmental laws that are being debated, proposed, and enacted by the administration and congress that diminish the ability of the public to comment on the Draft SEIS. This makes meeting the current deadline considerably more difficult since members of the public will need to consider and prepare comments for each of these separate proposals, as well as analyzing any combined impacts of these proposals.

All these significant policy changes occur at a time when the public has limited time due to increased commitments to children at home for the summer, longstanding vacation plans, and other responsibilities, including July 4th celebrations.

It appears that a settlement in the industry lawsuit regarding Oregon and California Railroad Lands is imminent. As you are probably aware, in some provinces falling within the Northwest Forest Plan area, these lands play a critical role in maintaining aquatic species. Any changes to the management of these lands will significantly affect the efficacy of the Aquatic Conservation Strategy. Thus we believe the best course of action would be to wait for any such settlement to occur before closing the comment period for the Aquatic Conservation Strategy Draft SEIS.

Response: *The agencies decided not to extend the comment period. The public had more than 90 days to comment on the proposal, which provided adequate time for review and comment on a 45-page Supplemental EIS.*

Comments about the Planning Process

Comment: I've attached my comment letter, and have printed it below. I attempted to fax it to the fax number (801) 517-1014, but that number is not receiving faxes. I do hope that is an oversight, and not merely an attempt to prevent comment letters from being received.

Response: *The fax number provided was valid. Many faxes were received at that number.*

Comment: The Draft SEIS stated that, "Documenting this analysis in an EIS is not intended to imply that there are significant effects to this amendment. An EIS was chosen as the vehicle to consider the language change so that all interested or affected people are provided opportunity to review and comment on the Proposed Action." This amendment will have significant effects, and were proposed in EIS form to avoid a court challenge on this basis. The public could just as easily have commented on an Environmental Assessment.

Response: *The agencies chose an Environmental Impact Statement as the vehicle to provide for widespread public review and comment. An Environmental Assessment would have provided a 30-day comment period, rather than a 90-day period. An Environmental Assessment would not have required publication of a Notice of Intent to Prepare an Environmental Impact Statement in the Federal Register (required for an EIS).*

Comment: Proposed changes to the Northwest Forest Plan...must be done through one SEIS, with a range of alternatives and an full environmental analysis, so cumulative and synergistic effects are taken into account for all proposed changes.

Response: *The agencies decided to prepare separate environmental documents for the two concurrent proposals to amend the Northwest Forest Plan (Survey and Manage SEIS and the ACS SEIS). CEQ regulations at 40 CFR 1508.25 9(a) discusses situations that warrant considering actions in a single EIS. The Survey and Manage decision will not trigger action on the ACS SEIS, nor will a decision on the ACS trigger action on Survey and Manage. Each project could proceed independently of the other. They are not interdependent parts of a larger action. The Draft SEIS discussed cumulative effects from both efforts; as stated on page 34, "the cumulative effects of proposed Northwest Forest Plan amendments are similar to effects analyzed in the 1994 Northwest Forest Plan FSEIS for Alternative 9. Neither proposal seeks to change the predicted outcomes of the Northwest Forest Plan."*

Comment: The administration has proposed major changes in NEPA documentation that will affect environmental analysis of land management projects in the Northwest Forest Plan area. Particularly important is the proposed to categorically exclude "hazardous fuels reduction projects" from NEPA. The proposed Northwest Forest Plan amendments must be considered along with all related proposed regulatory changes in one NEPA document because these and other proposed changes are all intrinsically linked.

Response: *The Final SEIS discusses proposed regulatory changes and discloses potential cumulative effects. The Final SEIS states that these are not connected actions that must be considered in a single EIS.*

Comment: What is the source of the agencies' power to delete language from a Record of Decision signed by a federal court judge and supported by FEMAT? It does not appear appropriate, and strikes me as a violation of the separation of powers, for federal executive branch agencies to propose amendments to a Record of Decision signed by a federal judge. That judge made his determination that the Northwest Forest Plan was legally defensible (i.e., adequately protected ESA species) only with FEMAT requiring site-specific application of the nine ACS objectives.

Response: *The judge did not sign the Northwest Forest Plan Record of Decision (ROD), the Secretaries of Agriculture and the Interior signed the document. Agencies are able to modify their plans in accordance with applicable policies, laws and regulations (the Northwest Forest Plan FSEIS and ROD discuss legal authorities for the decision).*

Comment: What's bothering me most is the fact that proposed timber rule changes in the Northwest Forest Plan are occurring with little if any open public debate. These changes seem very secretive and I do not see any public support for these changes. The public and field biologists did not ask for these changes to occur. The only support I see is coming from those institutions that will financially benefit from the changes . . . the timber companies.

Response: *The Proposed Action was circulated for scoping and 400 pieces of correspondence were received. The Draft SEIS was available for review and comment for more than 90 days and an additional 1,200 pieces of correspondence were received. These comments express range of opinions about the proposed amendment. See the section on Merits of the Proposed Action below for expressions of support.*

Comment: I personally sat and took valuable time out of my day - away from the youth I work with to personally craft this letter - it means so very much to me and I don't want some ridiculous Forest Service issue of not accepting letters generated by organizations as templates for public opinion.

Response: *All letters were reviewed for substantive comments. All substantive comments are summarized in this section.*

Comment: The Draft SEIS, page 4, states: "This SEIS supplements information in the Northwest Forest Plan Record of Decision and Final SEIS. It is not intended to re-evaluate decisions or effects analysis in the Northwest Forest Plan or the information provided by 1993 Forest Ecosystem Management Analysis Team (FEMAT) report." A supplemental EIS should not contradict what the original EIS says. This SEIS undermines some of the core elements and analyses of the 1994 Northwest Forest Plan FEIS so these issues must be reconsidered in full, not merely as a supplement.

Response: *Regulations about Supplemental EISs are at 40 CFR 1502.9 (c) "Agencies shall prepare supplements...if...the agency makes substantial changes in the Proposed Action that are relevant to environmental concerns." This Supplemental EIS considers whether the changes to language in the ACS are relevant to environmental concerns. The Supplemental EIS also considers whether there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. The proposed amendment is not intended to undermine the core elements of the ACS, rather both alternatives specifically retain all components including Key Watersheds, Riparian Reserves, Watershed Analysis and Watershed Restoration.*

Comment: The U.S. Forest Service and the Bureau of Land Management need to do more research to determine if timber harvesting impacts water quality and hydrological patterns before any consideration can be done to exclude this land use from the Aquatic Conservation Strategy.

Response: *The agencies are not proposing to exclude consideration of timber management projects in light of the ACS. The agencies are proposing to clarify the documentation needed to demonstrate compliance with standards and guidelines that refer to the ACS, including standards and guidelines related to timber management.*

Comments about the Adequacy of the Supplemental EIS

Comment: [EPA] has conducted [an EIS] review in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. We have rated the EIS, LO (Lack of Objections).

Response: *Discussions within the Final SEIS were edited and expanded in response to comments received by the EPA (and other organizations and individuals) during the 90-day comment period.*

Comment: This Affected Environment section adequately describes the existing regulatory environment, the ACS, and agency decision making that may have affected lands within the Northwest Forest Plan area since the 1994 ROD. This section should also more fully describe existing data on the present condition of natural resources since implementation of the Strategy. Such information might include number, types and distribution of timber sales, restoration projects, fuel treatments, road maintenance or closures, and other timber or forest management actions. Additional information might include comparison of data from the pre-ROD period with current data for indicators of aquatic ecosystem health as water quality, water temperature, presence or abundance of salmonids in salmon bearing streams, or other parameters that may be barometers of forest health in the Northwest Forest Plan area.

Response: *Additional analysis has been added to the Final SEIS to respond to this comment. Monitoring programs are summarized in the Final SEIS and the Biological Assessment (Appendix D).*

Comment: Please make two separate effects disclosures. One for fuel reduction involving brush and small trees that does not require road work and is unlikely to trigger ACS concerns, and make another for projects involving large scale commercial extraction of medium and large trees that will require road construction and be much more likely to raise ACS concerns.

Response: *“Commercial extraction” may be integrated with hazardous fuel reduction projects so separate effects disclosure would not be possible or accurate. See further discussion in the section on the integration between vegetation management and watershed restoration.*

Comment: We acknowledge that the monitoring period for the ACS has been too short to demonstrate effects and that it is very difficult to assess impacts of this proposed action or compare it to the effects of not taking action. The discussion of cumulative impacts, however, could be clearer about the predicted biological and physical impacts of implementing the clarification of language. In order to assess the adequacy of the cumulative impacts assessment, five key areas should be considered. The cumulative effects analysis should: 1. Identify resources if any, that are being cumulatively impacted; 2. Determine the appropriate geographic (within natural ecological boundaries) area and the time period over which the effects have occurred and will occur; 3. Look at all past, present, and reasonably foreseeable future actions that have affected, are affecting, or would affect resources of concern; 4. Describe a benchmark or baseline; 5. Include scientifically defensible threshold levels. Using this framework, it might be possible to estimate increase in projects that might occur by examining the number of projects done since implementation of the Northwest Forest Plan ROD (since this is a supplemental EIS, looking at all past actions would not be required) and the number of known reasonably foreseeable projects completed and not completed, an estimated difference in impact acreage could be a starting point for discussion of effects. You may then determine how predicted impacts compare to benchmarks established during development of the Northwest Forest Plan and compare how these impacts may or may not exceed important threshold levels for aquatic resources.

Response: *The 1994 FSEIS discussed cumulative effects of the alternatives across the Northwest Forest Plan area. The ACS SEIS considers results of that analysis in light of potential changed conditions since 1994, new listings under the Clean Water Act and Endangered Species Act, achievements in implementing the ACS across the Northwest Forest Plan area and concurrent programmatic or regulatory proposals currently being considered, along with the language change.*

Comment: The 1994 FEIS and this SEIS both fail to address threatened salmon as individual species with individual life history characteristics. Now that the salmon are listed, this SEIS must do what the 1994 FEIS failed to do.

Response: *Appendix D contains a Biological Assessment (BA) with further information about listed fish species.*

- Comment:** The Draft SEIS does not clarify what a legitimate application of the ACS will be when considering whether a sale should go forward in a particular watershed.
- Response:** *Under all alternatives, land managers are required to demonstrate that projects comply with applicable standards and guidelines. Under the proposed amendment, land managers would be required to document their consideration of the effects of projects in the context of the condition of the fifth-field watershed in which the projects will occur.*
- Comment:** The proposed action provides no language "clarifying" how to separate out those projects that will merely trash the habitat in the short-term from those that will contribute to continued degradation over the long run too. While the proposed changes are promoted as a "fix" that would allow the approval of projects ultimately beneficial to the overall health of the ecosystem, these same changes could also lead to the approval of projects whose negative impacts far outweigh their benefits.
- Response:** *The National Environmental Policy Act (NEPA) requires decision-makers to complete environmental analysis to weigh the positive and negative effects of projects. The National Forest Management Act and Federal Lands Policy and Management Act require agencies to comply with standards and guidelines in Resource Management Plans. Agencies are also required to comply with environmental laws such as the Endangered Species Act, Clean Water Act and Clean Air Act. Given these requirements, projects are unlikely to have negative effects that outweigh positive effects.*
- Comment:** While the Draft SEIS asserts that progress toward meeting the ACS objectives will be assessed at watershed and broader scales, Draft SEIS at 3, it offers no viable mechanism for doing so.
- Response:** *The Final SEIS discusses how agencies use watershed and other broad scale analysis to provide the context needed for project planning under the ACS. The Aquatic Riparian Effectiveness Monitoring Plan (AREMP) provides a monitoring strategy to assess progress toward attainment of ACS objectives across watersheds in the Northwest Forest Plan area.*
- Comment:** Where is the identification in the ACS or SEIS of all of the keystone species of the ecosystem - including microbes, fungi, and insects - and their habitat requirements? An analysis that does not include the factors essential for the survival of the entire ecosystem cannot be adequate.
- Response:** *The Northwest Forest Plan FSEIS considered soil organisms, fungi and insects. The proposed amendment will not change findings related to these species (see Appendix B for further discussion).*

Comment: Currently, the Northwest Forest Plan ROD, p. B-6, states that: "Stand management in Late-Successional Reserves should focus on stands that have been regenerated following timber harvest or stands that have been thinned." In contrast to this Standard and Guideline, Section C (ROD, Attachment A, p. C-12) states only that "(t)hinning (precommercial and commercial) may occur in stands up to 80 years old regardless of the origin of the stands (that is plantations planted after logging or stands naturally regenerated after fire or blowdown). Removing the Standards and Guidelines from Section B could have significant effect on LSRs and yet there is no analysis provided for such effects.

Response: *These statements are not mutually exclusive and both apply to projects within Late-Successional Reserves under all alternatives. Alternative A was developed to retain paragraphs referring to all of Attachment A as "standards and guidelines," and would not "remove the standards and guidelines for Section B."*

Comment: Please add the following to the list of restoration projects on page 35: prescribed fire, underplanting, snag and down wood management, invasive weed control, grazing control, OHV control, etc.

Response: *These activities were added to the types of restoration projects in the Final SEIS. Additional types of projects were also added.*

Comment: Geomorphic change is decades of boredom punctuated by hours of chaos when a really big storm hits. During those hours, more sediment and other changes occurred to the landscape than occurred in the previous 3 decades. These major events are rare enough that a researcher may not witness one in his entire career. The SEIS must assess these factors.

Response: *The Northwest Forest Plan FSEIS discussed catastrophic disturbance events and their effects on ecosystems. The likelihood of disturbance events was addressed in the size, number and distribution of Late-Successional and Riparian Reserves. Events that have occurred since 1994 were considered in the Draft SEIS (Appendix E).*

Comment: Another unstated assumption that must be disclosed and tested is that application of standards & guidelines alone will ensure attainment of ACS objectives. The briefing paper that accompanied the Notice of Intent for this ACS SEIS says: "The framers of the ACS have agreed that site-specific projects designed consistent with the aquatic standards & guidelines found in Section C and D are, by definition, consistent with the ACS..." This statement is missing from the SEIS, but the issue has not gone away. It is now just an unstated and highly questionable assumption underlying the analysis.

Response: *This statement was not included in the Draft SEIS because it did not fully acknowledge the role of watershed analysis in following the ACS. Scoping information led to inclusion of language about watershed analysis and its role in providing context for project planning in the Proposed Action. Alternative A contains similar language. The 1999 Regional Ecosystem Office memorandum stated that, "the standards and guidelines in Section C do not by themselves always guarantee that actions will be consistent with ACS objectives, in part because of the need for Watershed Analysis." The proposed amendment is consistent with the intent of the Regional Ecosystem Office memorandum.*

Comment: The ACS SEIS did not consider the role of climate change (i.e., global warming), which would dictate less logging to retard global warming and compensate for higher stream temperatures (B-16).

Response: *Global warming was considered in the Northwest Forest Plan FSEIS, specifically on pages 3&4-192-193. The proposed amendment does not invalidate the findings about global warming in the Northwest Forest Plan FSEIS (see Appendix B). Riparian Reserve standards and guidelines ensure that stream temperatures will not be increased as a result of management activities on federal lands.*

Comment: The Draft SEIS states that more than 400 letters, faxes, and e-mails were received from a wide variety of parties. Yet the Draft SEIS only provides short, incomplete, perfunctory and conclusory statements to justify the proposed changes. Where are the responses to the numerous comments and the analysis required under the APA to justify the proposed alternative? "Every issue that is raised as a priority matter during scoping should be addressed in some manner in the EIS, either by in-depth analysis, or at least a short explanation showing that the issue was examined, but not considered significant for one or more reasons." Memorandum for General Counsels, NEPA Liaisons and Participants in Scoping, 46 FR 25461.

Response: *Scoping comments were reviewed and issues were identified and discussed. Scoping comments were discussed on pages 10-12 and in Appendix C of the Draft SEIS. Additional scoping and public involvement records are in the analysis files.*

Comment: The DEQ data as to water quality trends is meaningless without knowing the location of the monitoring stations (are they adjacent to federal forest land?)

Response: *Water quality is monitored both on and off National Forests and lands administered by the BLM. Monitoring conclusions were included in the Draft SEIS. These conclusions are based on information in the monitoring reports cited. These reports included the locations of the monitoring stations. Streams are influenced by conditions on all land ownerships.*

Comment: On page 31 of the Draft SEIS. Page 202 of the Northwest Forest Plan FSEIS is misquoted, and makes no sense.

Response: *There was a typographical error within this citation in the Draft SEIS. The paragraph has been corrected in the ACS Final SEIS to read:*

"...the [Aquatic Conservation] strategy can succeed at maintaining and restoring aquatic and riparian habitats regardless of what happens on non-Federal lands, but that would not ensure the population viability of many of the fish stocks evaluated in the SEIS. For these reasons, it is not possible to determine whether any of the alternatives in the SEIS would preclude listing of fish species under the Endangered Species Act."

Comment: Appendix B needs to be proofread and edited. Page B-14 is unintelligible.

Response: *Appendix B has been edited within the ACS Final SEIS.*

Comment: The DEIS is inadequate in that it fails to state, either here or elsewhere in the entire document, including the appendices, what the nine ACS objectives are. How can a reviewer possibly decide which alternative is best (i.e., site-specific or watershed application), without knowing what objectives are to be applied?

[Re:] pp. 15-19: It is impossible to understand or evaluate the environmental impact of the proposed language deletions and additions out of context with the pertinent sections of the ROD; thus, this DEIS is inadequate in that respect.

Response: *The cover letter attached to the Draft SEIS provided a contact for obtaining copies of the full Northwest Forest Plan Record of Decision (including the ACS objectives). For the convenience of the reader, the nine ACS objectives are included as part of the BA in Appendix D.*

Comment: The summary is contradictory. It states that "Decision makers must design projects to follow the ACS," but that progress need be evaluated only at the watershed or larger scales. These two directives are contradictory.

Response: *The agencies do not agree that the two concepts noted are contradictory. The ACS SEIS explains why the proper scales for federal land managers to evaluate progress toward achievement of the ACS objectives are the watershed and broader scales. The proposed amendment retains all components of the ACS.*

Comment: What do the Forest Service, Bureau of Land Management, and the Department of Interior consider to be "relevant information" that is in the proposed language of Page C-2? This issue of relevant information is the very point that has been a source of confusion within agency management before and after creation of the Northwest Forest Plan. It would be essential for any proposed amendment to clarify this term. Failing to provide the necessary analysis and information is a violation of the APA. 5 U.S.C [SEC] 706(2)(A).

Response: *The 1995 Federal Guide for Watershed Analysis describes information provided by watershed analysis that is relevant to project-level decision-making. These descriptions are referenced in the Final SEIS and specific language in the Preferred Alternative A.*

Comment: [Re:] PCFFA II order, 9/30/99. Judge Rothstein's order was appealed to the Ninth Circuit Court, which affirmed her holding. The DEIS is inadequate since it does not include the text of the Ninth Circuit Court opinion.

Response: *For the convenience of the reader, Appendix A (in this ACS Final SEIS) includes the published 9th Circuit Court opinion.*

Comment: The Forest Service and BLM have failed to demonstrate that the agencies have developed alternative means to protect listed aquatic species, and to prevent the federal listing of additional species under the Endangered Species Act, 16 U.S.C. [Sections] 1531-1544 (1994) (ESA). Furthermore, the agencies have yet to articulate how they propose to protect and restore watersheds without the tenets of the ACS.

Response: *The agencies are complying with the Endangered Species Act and have initiated consultation regarding listed fish species (see Appendix D). The tenets of the ACS (Key Watersheds, watershed analysis, watershed restoration, and Riparian Reserves) remain intact in all alternatives. Protecting the habitat of these species on the federal forest lands in the Pacific Northwest may not prevent these species from being listed under the Endangered Species Act. These species are affected by many other factors such as harvest, ocean conditions, water impoundment projects, disease and competition from other species.*

Comment: I am writing to tell you I strongly oppose the proposed weakening of the Northwest Forest Plan's Aquatic Conservation Strategy (ACS). I have read the Draft SEIS carefully and object to the inclusion of so many weasel words (may, might, should, could, ought, ask, involve, call for, desire, perhaps, expect, trust, believe, maybe, possibly, to the extent practicable) that make protection of the Pacific Northwest's streams, aquatic wildlife and forests essentially discretionary.

Response: *The proposed amendment is not intended to weaken the ACS or make protection of the forests discretionary. The proposed amendment would not invalidate effects predicted for Alternative 9 in the Northwest Forest Plan (see Appendix B in this ACS SEIS for more information).*

Comment: The title of the Draft SEIS, "Clarification of Language in the Record of Decision for the Northwest Forest Plan" understates the significance of potential impacts.

Response: *The title of the SEIS is not intended to understate the significance of impacts that could occur under the proposed amendment.*

Comment: NEPA requires the agencies to assess the environmental consequences of its actions, but the USFS and BLM have failed to do so here. Consequently, the Draft SEIS is inadequate and must be withdrawn until sufficient environmental analysis is completed.

Response: *Environmental consequences are discussed in Chapters 3&4 of this Final SEIS. The EPA, FS and BLM do not agree the EIS is inadequate.*

Comment: The Draft SEIS (Page 18, Proposed Action) states: "To follow the ACS at the site-scale, decision makers must demonstrate that projects comply with standards and guidelines in Sections C and D." The Draft SEIS continues, "The project record will demonstrate how the agency used relevant information from applicable watershed analysis to provide context for the design and site-specific assessment of the project...." NOAA Fisheries recommends that these two passages be augmented to more clearly delineate the role of watershed analysis, in conjunction with the standards and guidelines, in ensuring consistency with the ACS and thus attainment of the ACS objectives over time. The final wording in this section of the SEIS should provide a clearer discussion of the role of ACS objectives within the context of the overall strategic plan (ACS), as well as the role of watershed analysis and the standards and guidelines in assuring ACS consistency at the project level relative to the relationship between project design and assessment and attainment of ACS objectives. We recommend that this discussion (possibly with examples of how project-level ACS consistency would be ensured under the proposed action) be included in the Final SEIS. NOAA Fisheries staff is available, and would be pleased to work with the ACS EIS team in developing this discussion.

Response: *Preferred Alternative A was developed to clarify documentation requirements in the proposed amendment. Discussions in the Final SEIS and Biological Assessment (Appendix D) are intended to clarify these passages.*

Comment: Without any clear rationale, the Draft SEIS removes most of the Standards and Guidelines that are essential to the implementation of the ACS. The agencies must clarify the status of all of the rules and standards that are located in sections A, B, D, and E of the ROD.

Response: *All of Attachment A remains management direction to be followed in all alternatives. This direction would not be nullified or voided in any alternative. Some people expressed concern that the text of the Proposed Action could render that direction "unenforceable." Alternative A specifically retains certain passages that would have been removed by the Proposed Action to respond to this public concern.*

Comment: The DEIS should indicate what timber harvest rates have been on non-federal lands within the Plan area since 1994.

Response: *As incorporated into the Draft SEIS, Page 3&4-82 of the Northwest Forest Plan FSEIS found: "The success of the strategy does not depend on actions on nonfederal lands. Many of the federal watersheds occur upstream of nonfederal watersheds. Thus, the strategy can succeed at maintaining and restoring the aquatic and riparian habitats independent of actions on nonfederal lands." Page 2-7 of the 1994 Northwest Forest Plan FSEIS stated: "...impacts from expected management activities on nonfederal lands were considered as part of the cumulative effects analysis in this SEIS in accordance with the requirements of NEPA." Page 3&4-6 stated: "The future harvest levels on nonfederal lands are also expected to be similar under all alternatives. The amount and character of timber harvest activity on nonfederal lands in the first decades are similar under all 10 alternatives. Thus, the management of, and the changes in habitat on, nonfederal lands are not expected to be significantly affected by selection of any of the 10 alternatives in this SEIS." No further analysis is necessary.*

Comment: The proposed changes would clearly allow substantially higher logging levels than currently exist, since logging projects would not have to comply with the current protections in riparian reserves and key watersheds. The DEIS even admits that the changes are designed to bring logging levels up to the original PSQ (see DEIS pp. 39-40), which would be an annual increase of several hundred million board feet. Yet the DEIS (p. 40) fails to honestly acknowledge this, and claims that there is no way to know what the effects will be on logging levels. This violates NEPA. The government must disclose the extent to which the changes would increase logging levels, even if a rough estimate is required. Otherwise, the DEIS fails to meet the "hard look" standard of NEPA.

Response: *None of the alternatives are intended to “allow substantially higher logging levels” than predicted under Alternative 9 in the Northwest Forest Plan. All projects must comply with standards and guidelines described in Resource Management Plans. None of the alternatives are intended to change the way projects are designed or analyzed. Rather, the action alternatives are intended to remove expectations that are impossible to meet while planning projects that follow Northwest Plan principles. This is only one factor of many that influence federal timber sale programs.*

Given the underlying assumptions related to current interpretations of the ACS language, over the long-term No Action would not be able to sustain current PSQ estimates. The proposed amendment is intended to help agencies achieve the PSQ associated with Alternative 9 (as adjusted in individual RMPs). The effects of implementing Alternative 9 were disclosed in the 1994 Northwest Forest Plan FSEIS.

Comment: The Draft SEIS page 33 states, "This effects analysis supplements findings within the Northwest Forest Plan and its Final SEIS. Discussions about the Affected Environment and the Environmental Consequences of the ACS and Northwest Forest Plan are not repeated, but are incorporated by reference." The contents of the 1994 FSEIS must be briefly described. 40 CFR 1502.21

Response: *Appendix B briefly described findings in the Northwest Forest Plan FSEIS incorporated into this SEIS.*

Comment: The Draft SEIS states: "If the Proposed Action results in increased vegetation management and watershed restoration activities, risk of adverse short-term, site-level impacts would increase proportionately to the amount of work implemented [SEIS p. 42]." Please disclose the consequences of this increase in terms of the life-histories of each individual aquatic species of management interest including all listed aquatic species and survey and manage species.

The Draft SEIS states: "Predicted effects are described in the Northwest Forest Plan FSEIS [SEIS p. 42]." The 1994 EIS address only 7 "groups" of fish. Now that so many fish are listed under the Endangered Species Act, the agencies must present species-specific information and analysis.

Response: *The Biological Assessment in Appendix D contains information about fish species listed under the Endangered Species Act within the Northwest Forest Plan area.*

Comment: The Draft SEIS states: "The potential adverse effects to aquatic and riparian habitats include: risk of increased sedimentation from disturbance from road work and logging operations, risk of effects to peak flows from canopy removal; and risk of loss or degradation of wildlife habitat [SEIS p. 42]." These are serious effects that are inconsistent with the ACS objectives. The disclosures that you have presented here are less detailed and informative than even an average Environmental Assessment, but this is an EIS and requires much more detailed and comprehensive analysis.

Response: *The portion of the Draft SEIS referenced in this comment characterized the type of effects that would be considered in site-specific effects analysis for a given project. This is a Supplemental EIS to an existing analysis; the detailed analysis you expect here is in the 1994 Northwest Forest Plan FSEIS and associated documents, or will be described subsequently in site-specific environmental analysis for projects.*

Comment: Endangered Species Act consultation strategies are referred to on page 21 of the supplemental EIS. We believe improved consultation is essential to timely implementation of the projects. Since the EIS relies on new approaches to consultation as "an assumption common to both alternatives," it would be helpful to more clearly describe the new consultation approaches in the Supplemental EIS.

Response: *The relevant assumption about the new consultation process is that it will not rely on findings of consistency with ACS objectives as a surrogate for Endangered Species Act jeopardy analysis.*

Comment: Multiple documents: FEMAT, the Northwest Forest Plan ROD, the S&G's, and the Programmatic BiOp all unequivocally state that the ACS must be implemented at all four spatial scales. The current claim that such a clearly stated goal needs clarification is a falsity by the current Administration to re-prioritize the current Northwest Forest Plan to provide more opportunity for commercial logging.

Response: *The proposed amendment retains elements of the ACS that apply to various spatial scales. Project-specific standards and guidelines in Section C relative to Key Watersheds and Riparian Reserves are the same in all alternatives. The proposed amendment would not re-prioritize" the Northwest Forest Plan. The interpretation that created the need for this clarification confused the components of the ACS, which are implemented at various scales, with the objectives of the ACS, which are attainable at watershed and broader scales. Chapter One includes ACS citations that support the agencies' interpretation of the role of ACS objectives.*

Comment: The table on page 26 is in no way supported by data or actual facts. It is only an insufficient assumption of what agencies want to happen based on the proposed amendments.

Response: *Analysis in Chapter 3&4 in the ACS Draft SEIS supported the table on page 26. As discussed in the Draft SEIS, agencies are unable to predict the extent to which the proposed amendment will result in increased success implementing projects that follow Northwest Plan principles.*

Comment: The Draft SEIS notes that "in the short-term, delaying or avoiding projects could have some positive benefits on the physical and biological environment, since the risk of short-term adverse effects from the projects would be reduced or eliminated." Draft SEIS, 41. The Draft SEIS also states that: "The environmental consequences of the alternatives are highly speculative. The effects of No Action are particularly uncertain because the current language contains ambiguities that can be misinterpreted. The agencies believe that this language needs to be amended to clarify the ACS, but cannot quantify to what extent the amendment will result in increased implementation of projects needed to follow Northwest Forest Plan principles." Id. at 34.

These passages are the sum total of the agencies' analysis of the positive effects of the no action alternative, as well as the direct and indirect effects of the proposed action, and is inadequate under NEPA. We believe that the no action alternative will have many beneficial effects on the planning area, including maintenance of clean drinking water, species viability (both listed and nonlisted species), habitat improvement, and recreational opportunities. However, none of these effects are mentioned in the Draft SEIS. We also maintain that the action alternative will have adverse consequences that are quantifiable, but were unaddressed in the Draft SEIS. As a result, the agencies' NEPA analysis is inadequate, and the Draft SEIS must be withdrawn.

Response: *The Final SEIS includes further discussion about the effects of the No Action alternative. Current timber harvest levels have been closer to levels associated with Alternative 1 in the Northwest Forest Plan FSEIS than levels predicted for Alternative 9. Benefits of Alternative 1 were described in the Northwest Forest Plan FSEIS.*

Comment: The restoration discussion is an example of incomplete analysis. It is recognized that timber harvest generally degrades watersheds and that much restoration work is necessitated by past logging. It is expected that timber harvest levels will increase if the Proposed Action is implemented. Therefore, to justify the claim that more restoration will be accomplished under the Proposed Action than under No Action, the discussion would have to allow for the extra restoration work needed due to increased timber harvest under the Proposed Action.

Response: *Timber harvest may have beneficial and adverse effects (effects are disclosed in site-specific NEPA analysis). Timber harvest projects may provide opportunities or funding to accomplish restoration. The Northwest Forest Plan as a whole is intended to maintain and restore habitat for species associated with late-successional and old-growth forests. The proposed amendment would not change this overall goal.*

Comment: Several commenters remarked that the Draft SEIS did not appropriately use the term “tiering.” They stated that the Proposed Action amends the Northwest Forest Plan, therefore it cannot tier to its FSEIS.

Response: *The Draft SEIS used the term “tiering.” This SEIS “supplements” the Northwest Forest Plan FSEIS (Supplemental EIS’ are discussed at 40 CFR 1502.9). “Tiering” has specific meanings that are distinct from “supplementing.” These terms are used correctly in the Final SEIS.*

Comments about the Purpose and Need for Action

Comment: [The EPA finds that] the Purpose and Need chapter has clearly established the underlying need; there is more than adequate background information describing the present difficulties with language in several portions of the ACS. This language has resulted in the interpretation that even small projects with long-term benefit which result in minimal, short-term site disturbance could be delayed because they could be seen as inconsistent with the Strategy. The discussion in the EIS makes it clear that this was not the lead agency's intent in crafting the Strategy. This chapter, however, needs a more specific statement of purpose that addresses the underlying need. The purpose statement show on Page 10 is quite general. We believe that a clearer, but still concise purpose statement in this chapter would place clear boundaries on the action and help set an appropriate range of alternatives for consideration and analysis in the EIS.

Response: *The Purpose and Need section was edited in the Final SEIS. The agencies believe the Purpose and Need places clear boundaries on the action and sets an appropriate range of consideration in the Final SEIS.*

Comment: The Draft SEIS indicates that the central rationale for removing Standard and Guideline status from most of the ROD is to remove this status from the ACS objectives. Although the Draft SEIS quotes a statement in the Northwest Forest Plan FSEIS that the ACS objectives "do not meet the definition of standards and guidelines and thus, are not included (in the S&G section)," this apparently was not the final judgment of the EIS team or decision makers since the whole ROD was designated as Standards and Guidelines. Draft SEIS, p. 10, citing Northwest Forest Plan FSEIS, p. 166. In fact, the ACS objectives are the critical standards to be met by the strategy.

Response: *As discussed in the Draft SEIS, the ACS objectives are not (and were never intended to be interpreted as) standards.*

Comment: The ACS is not a roadblock to legitimate restoration. In fact, it's working to help restore real places in real watersheds. See the attached list of examples of "tangible places restored" by the proper application of the ACS. Note also that the Siuslaw National Forest recently received a "triple crown" of Forest Service awards in recognition of their ability to get things done on the ground. Dale Bosworth, Chief of the Forest Service, honored the Siuslaw Forest with the "Breaking Gridlock", "Natural Resource Stewardship" and "Rise to the Future" awards.

The SEIS must explain why the Siuslaw Forest is so successful even under the requirements of existing ACS. Given that the Siuslaw Forest manages more miles of anadromous fish streams than any forest in the Northwest Forest Plan area, the ACS problems described in the SEIS should be worse here than anywhere else, yet here on the Siuslaw they are getting awards for breaking the gridlock. This runs counter to virtually everything the SEIS is saying. This success is being realized not only in stream and road restoration but also in their timber program which in FY 1998 made more money than any other forest in the national system and they did it mostly by thinning younger stands, whereas the nearby Willamette National Forest was trying to log more old-growth and they were largely unsuccessful and LOST more money (~\$30 million) than any other forest in the nation. Given these facts, how can the analysis in the SEIS be accurate?

Draft SEIS statements are not based on actual past incidents or on any documented history of the management actions or attempted management actions to date under the Northwest Forest Plan. The statements in the Draft SEIS are without merit and are creating a false scenario to create an appearance that the Northwest Forest Plan prevents effective ecosystem restoration. Where in the area of the Northwest Forest Plan have such restoration projects been halted?

It appears that any misapplication of the ACS occurred as a result of the government misunderstanding or misconstruing the PCFFA litigation, not the PCFFA litigation itself.

Not only were restoration projects explicitly excluded from the injunction in PCFFA I, but dozens of restoration projects have been completed in Washington State that comply with the ACS including: Excelsior Chinook Acclimation Project, Finney Instream Project, North Fork Nooksack Large Woody Debris Project, Mt. Baker Instream Restoration, Skiyou Island Habitat Restoration, Tye River Watershed Restoration, Midnight Creek Stream Project, White River Road Decommissioning, Whitechuck Rd.#23 Road Relocation, Finney Ck. Road Treatments, Beckler Watershed Road Decommissioning, and South Fork Snoqualmie Road Decommissioning on the Mt. Baker-Snoqualmie National Forest; the Church Creek Road Decommissioning, Cedar Creek Road Decommissioning and Stabilization, Upper Dungeness Road Decommissioning, Calawah Mainstem In-stream projects, Quinault Roads Decommissioning, Falls Creek Channel Project, Chester Creek Large Woody Debris Project on the Olympic National Forest; and Trout Creek Channel Restoration, Wind River Channel Restoration, Wind River and Dry Creek Channel Restoration, Panther Creek Restoration, West Fork Lusk Creek Restoration, East Fork Lewis River Fish Habitat Restoration, Rush Creek Channel Restoration, Cispus/Iron/Yellowjacket Creek Restoration, Smith Creek Restoration, East Creek Flood Repair, Little Nisqually Flood Repair, Packwood Flood Repair, and Randle Flood Repair on the Gifford Pinchot National Forest.

Numerous young stand treatments that might have short-term impacts at the site level, but long-term benefits have also completed NEPA analysis and comply with the ACS including Dark Canyon Thin, Divot Thin, Dry Jackpot Thin, Crayon Thin, Cispus Thin, Heli-Tower Thin, Iron Summit Thin, Johnson Thin, Lava Fiber Thin, Tower Thin, and Lower Iron Thin on the Gifford Pinchot National Forest; Satsop Thin, Boundary Thin, Triton Thin, Harris Thin, Big Shrew Thin, Mouse Thin, Split Thin, Two-Y Thin, Pit Thin, Overpass Thin, Donahue Forks Thin, and Matheny South Thin on the Olympic Peninsula; and White River Thin, I-90 Thin, Finney AMA Thin, Forgotten Thin, and North Zone Thin on the Mt. Baker-Snoqualmie National Forest. The view that the ACS is unworkable does not apply to National Forests in Washington State, and such statements should be retracted as incorrect, misleading, and considerably biased. Such statements have no place in a Purpose and Need Statement.

- Response:** *The Draft SEIS did not intend to imply that the ACS is a roadblock to all projects everywhere. Some projects have been challenged based on a misapplication of the ACS (see Chapter 1 in the SEIS for case citations). The agencies do not base their interpretation of management direction depending on the popularity of individual projects; such an approach would introduce an element of arbitrariness into the decision-making process.*
- Comment:** As stated in the Draft SEIS, the current management interpretation of the Northwest Forest Plan meets neither the letter nor the intent of Option 9 of the Northwest Forest Plan chosen by President Clinton. In applying the current management practices, the agencies are more closely following Option 1, which was deliberately not chosen by the administration in power at that time. Dr. Jack Ward Thomas, lead scientist on the FEMAT team that produced the Northwest Forest Plan, stated on June 23 that the agencies are not applying the management plan correctly and are not meeting the intent of neither the plan nor the government.
- Response:** *The agencies agree with this characterization.*
- Comment:** If the agencies cannot quantify to what extent the amendment will result in increased implementation of Northwest Forest Plan principles, then there is no demonstrated need for the amendment.
- Response:** *The agencies have had difficulty achieving desired harvest levels partly because of the misapplication of ACS objectives. The Final SEIS states No Action is expected to result in continued low harvest levels more like Alternative 1 in the Northwest Forest Plan FSEIS. The need for action is discussed in Chapter One of the ACS SEIS.*
- Comment:** The Draft SEIS states that current interpretations hinder Federal land managers' ability to plan and implement projects needed to achieve Northwest Forest Plan goals [SEIS p. 4]. In reality, it is not all goals that are hindered but timber harvest and associated road construction which harm fish that is hindered. Furthermore, the timber harvest goal was qualified by the expectation that the "health of forest land" would be "preserved" and timber sales would "not degrade or destroy the environment."
- Response:** *The Draft SEIS stated that the purpose of the project was agency success in planning and implementing projects that follow Northwest Forest Plan principles, including timber sales that would not degrade or destroy the environment. Many commenters have stated their assumption that any project that includes logging within late-successional or old-growth stands of timber or will, by definition, "degrade or destroy the environment."*

The Northwest Forest Plan Record of Decision discussed why the Secretaries of Agriculture and the Interior selected Alternative 9, which specifically included timber sales within late-successional and old-growth stands. Clearly, the authors of the Northwest Forest Plan did not share the assumption that timber harvest and road work automatically degrade/destroy the environment. An ironic result of PCFFA v. NMFS is that Federal timber sale planners have become reluctant to include restoration work in proposed timber sale projects if the restoration work may result in disturbance to aquatic or riparian habitats and triggers the need for Endangered Species Act consultation. In many cases, the adverse effects described in the PCFFA sales were from actions such as culvert replacement that would have resulted in long-term benefits to the environment.

Comment: Please disclose that the primary limitation on timber stand improvement and legitimate fuel reduction is NOT the ACS, but rather funding limitations. The staff on the vast Middle Fork District of the Willamette National Forest says that they could thin 4,000 acres of dense young plantations per year for the next 20 years, but they are not funded to do it. Their young stand thinning projects are not limited by the ACS but by agency and Congressional priorities.

Response: *Funding decisions are beyond the scope of this SEIS. Resource Management Plans describe programs of work. The portion of the program of work is funded each year. One of the reasons funding falls short for vegetation management treatments is that the complex array of project planning requirements. The agencies cannot tolerate continued ambiguity and impossible expectations in attempting to fund projects needed to achieve Northwest Forest Plan goals.*

Comment: While one of the objectives of the Northwest Forest Plan was to provide a sustainable supply of timber, it was only one of four goals related to the Plan. In choosing to amend the ACS, the USFS and BLM have placed an inappropriate emphasis on timber production - only one of the goals of the Northwest Forest Plan - rather than on achieving all of the goals of the Plan.

Response: *The proposed amendment is intended to increase agency success planning and implementing projects that follow Northwest Forest Plan principles. Timber sale volume is one indicator of agency success. The Northwest Forest Plan does not emphasize timber production over other goals, rather the Northwest Forest Plan reduced timber production on lands administered by the BLM and FS by about 80 percent compared to past levels.*

Comment: The nine objectives of the Aquatic Conservation Strategy are stated on page B-11 of the 1994 ROD. Nothing in that section states or implies that the objectives are to be applied or complied with strictly at the watershed scale.

Response: *The ACS SEIS explains why the proper scale for evaluating progress toward attainment of ACS objectives is the fifth-field watershed scale and broader scales. This information is reflected in the 1995 Federal Guide for Watershed Analysis, Dr. Reeves' declarations and reports in Appendix A and F, excerpts included in the Background of the ACS section of the ACS SEIS, and in the wording of the proposed amendment.*

Comment: There is simply no way that the agencies can clearcut mature forest and "maintain" watershed conditions. The problem lies with the agencies' refusal to let go of destructive timber sales and road construction projects that degrade watershed conditions and impact aquatic habitat. The problem appears to originate in the unrealistic Probable Sale Quantity (PSQ) that the draft SEIS claims should be met.

As long as the agencies are mandated by Congress to maintain certain timber production targets, there will be problems with environmental consequences of sales that must contribute to those target goals but do not meet environmental criteria of protecting the watersheds. The Northwest Forest Plan speaks of producing "a predictable and sustainable supply of timber...that will not degrade or destroy the environment." It does not say that timber sales must go forward if they are proven to have adverse environmental impacts...The goal must be the sustainable and predictable level of recovery of the health of the ecosystem and water quality, and in particular the sustainable and predictable level of recovery of its most threatened members such as salmon.

Response: *The Northwest Forest Plan included a goal of sustainable harvest that does not destroy the environment (paraphrased). The Secretaries decided this goal would best be met through Alternative 9, partly because this alternative: "is the best alternative for providing a sustainable level of human use of the forest resource while still meeting the need to maintain and restore the late-successional and old-growth forest."*

Comment: The 1994 EIS used the term "standards and guidelines" broadly, while this SEIS uses the terms quite narrowly, i.e., standards & guidelines are not just parts C and D of Attachment A to the 1994 ROD but the whole document. This EIS must disclose the import of this difference.

Response: *The Proposed Action was modified (Alternative A) to respond to this comment. Preferred Alternative A would not remove paragraphs that state that all of Attachment A comprises standards and guidelines. Alternative A contains language to clarify the difference between project-specific standards and guidelines and other types of management direction.*

Comment: The fact that timber harvests are less than expected does not create a "need" to change the Northwest Forest Plan, since a particular harvest level was not legally required. The "need" is to protect ESA species, and if this means a lower PSQ, so be it. The Northwest Forest Plan did not guarantee business as usual, but rather called for adaptive management. The agencies blame the 35 percent attainment of the PSQ on "appeals and protests on individual projects" as well as "enjoined biological opinions." This blame is misplaced. The problem is poorly planned timber sales that would have a detrimental impact on riparian/aquatic resources if they proceeded, and the continued decline of these species. Many of the PCFFA v. NMFS sales were outrageous, and should have been challenged in the courts. The worst sales have been permanently enjoined, and the others released. The agencies' current inability to meet PSQ is attributable to timber sale design and the continued decline of Northwest Forest Plan species, especially those dependent on LSRs and Riparian Reserve habitat.

Response: *The "need" is for increased success planning and implementing projects that follow Northwest Forest Plan principles and contribute to achieving its goals. As stated in the Northwest Forest Plan Record of Decision (page 25), Alternative 9: "responds to multiple needs, the two primary ones being the need for forest habitat and the need for forest products." The Northwest Forest Plan was never intended to be a "species recovery plan." Recent settlement of the O&C lawsuit reaffirmed that the agency has a need to achieve timber harvest levels closer to those predicted for Alternative 9.*

The statutory direction for management of O&C lands requires the BLM to offer a certain level of harvest once an allowable cut is declared (See 43 USC § 1181a). No sales were "permanently enjoined" in the PCFFA v. NMFS litigation, nor was the quality of BLM and FS sale planning at issue in that litigation. None of the sales caught up in this litigation violated any project specific standard and guideline. In many of these sales, the "degrading" activity that triggered the need for consultation was restoration work (such as culvert upgrade) associated with the projects.

Comment: We find it particularly disturbing that the proposed action redefines the role of ACS objectives, demoting them to the role of "context for project planning." Clearly, the ACS objectives are intended to delineate the broad mandate of the ACS as a whole. It seems obvious to us that any project that falls under the scope of this mandate should be expected to meet the stated objectives. It appears that the Forest Service (and the various extractive industries) are proposing these changes simply because they find the existing rules too burdensome.

Response: *The agencies agree that: "ACS objectives are intended to delineate the broad mandate of the ACS as a whole." None of the alternatives intend to "demote" this role.*

Comment: Unlike logging old forest, restoration projects have countervailing benefits that allow them to proceed. This SEIS must reconcile its narrow-minded view that both restoration and logging have equal effect with the repeated statements in the record before and after the Northwest Forest Plan indicating the analytical utility of weighing short-term and long-term impacts and potential benefits of restoration and logging. "...watershed restoration assessment will identify restoration goals and provide a risk assessment showing that benefits outweigh the risks of proceeding with a project." (1994 ROD page 57).

Response: *Nothing in the proposed amendment eliminates the NEPA requirement that decision makers consider the risks and benefits of projects. Alternative 9 in the Northwest Forest Plan FSEIS was intended to provide a sustainable, predictable level of timber harvest. According to many of the public comments received on the ACS Draft SEIS, timber harvest within native forests (especially old-growth) never have "countervailing benefits" and thus should never occur. The Northwest Forest Plan FSEIS, ROD and associated record does not support this contention.*

Comment: The Draft SEIS states: "The current wording of the ACS has been interpreted to preclude timber sales such as these that may result in minimal impact to aquatic and riparian habitat [SEIS p. 8]." Yes, but "minimal impact" is not the same as "maintain and restore." As recognized by Judge Rothstein and the 9th Circuit, even "minimal impacts" can seriously harm threatened or endangered salmon. This passage also forgets to mention that logging old forests (and associated road building) outside the riparian reserves can have cumulative watershed effects that can directly and adversely impact aquatic resources through peak flows and loss of large woody material.

Response: *This comment and others assert that timber harvest within late-successional and old-growth can never meet the ACS, thus demonstrating the very problem with ambiguity that the agencies are trying to solve. The agencies did not select Alternative 1 in the Northwest Forest Plan FSEIS (which would have avoided such harvests) partly because it would not have provided a sustainable PSQ to meet the socio-economic needs articulated in the 1994 Record of Decision. As stated in the Northwest Forest Plan Record of Decision (page 26): "The need for forest products from forest ecosystems is the need for a sustainable supply of timber and other forest products that will help maintain the stability of local and regional economies, and contribute valuable resources to the national economy, on a predictable and long-term basis...Alternative 9 in the Final SEIS is the best alternative for providing a sustainable level of human use of the forest resource while still meeting the need to maintain and restore the late-successional and old-growth forest."*

Comment: There is no evidence in the record, or elsewhere to our knowledge, that anybody has ever asserted that the ACS requires any single site-scale project to "fully attain" all of the ACS objectives. In fact, since such attainment is a physical impossibility it is unclear why the Draft SEIS must clarify this point. However, while it may be true that no site-scale project can "fully attain" the ACS objectives, a single project can certainly be inconsistent with meeting these objectives at the site and/or watershed scale, and if so the ACS clearly prohibits that project.

Response: *The agencies agree that no evidence in the record suggests that the ACS was intended to require site-scale projects to fully attain the ACS objectives. However, this is exactly what was asserted by plaintiffs and apparently accepted as an interpretation of the Northwest Forest Plan by the courts in the PCFFA v. NMFS litigation. This interpretation has necessitated this amendment to clarify documentation requirements associated with the ACS.*

On page C-31, Attachment A to the Record of Decision for the Northwest Forest Plan stated: "standards and guidelines for Riparian Reserves prohibit or regulate activities in Riparian Reserves that retard or prevent attainment of the Aquatic Conservation Strategy objectives." This means that compliance with standards and guidelines (given the context provided by analysis at broader scales) is intended to assure that projects will not retard or prevent attainment of ACS objectives. The proposed amendment emphasizes the role of watershed analysis in providing appropriate context for project planning as required by the ACS.

Comments Specifically Related to the PCFFA Lawsuits

Comment: In addition to inadequate analysis of the effects of the proposed ACS amendments on the Northwest Forest Plan, misinforming the public about a legal case to provide justification for broad scale changes to the Northwest Forest Plan is not valid under NEPA. The Draft SEIS includes only one of a series of three decisions in the PCFFA cases. Action agencies have incorrectly used such court decisions as a scapegoat to justify this unnecessary amendment process. However, there is no discussion of PCFFA I, which upheld the ACS under the ESA based on the agencies' promise that every project would meet the ACS objectives. Such analysis was to serve as a check on the discretion within the ACS to pursue projects that could degrade aquatic habitat. Now, action agencies want unfettered discretion, which runs counter to such assurances provided in prior litigation and is in conflict with the purpose of the Northwest Forest Plan.

In Pacific Coast Federation of Fishermen's Associations v. NMFS, the issue was whether NMFS adequately evaluated the action agencies' compliance with the ACS in reaching its "no jeopardy" conclusion. PCFFA, 71 F. Supp. 2d 1063, 1069 (W.D. WA. 1999).

The court found that (1) NMFS failed to adequately assess the short-term impacts of the timber sales and failed to adequately explain its assumption that passive restoration will adequately mitigate the adverse impacts of logging; (2) that NMFS failed to use watershed analysis to determine whether the watersheds at issue were in the acceptable range of variability and thus NMFS had not fully or sufficiently incorporated watershed recommendations into its ACS analysis; (3) and that NMFS permitted violations of ACS riparian reserve standards where there was no evidence of a rational connection between the proposed action and the attainment of ACS objectives.

Response: *The Draft SEIS effects analysis is adequate and accurately portrayed recent court opinions. Plaintiffs in subsequent litigation (cited in the Draft SEIS) have now asserted that single projects must fully attain all ACS objectives at all spatial scale levels and are citing as support the PCFFA decisions.*

The intent of the Final SEIS is not "unfettered discretion," rather the agencies seek clear and attainable documentation requirements.

Given the difficulties experienced in the PCFFA litigation, NOAA Fisheries (formerly NMFS) will no longer rely upon ACS consistency in order to make Endangered Species Act section 7 jeopardy determinations on land management projects proposed in the Northwest Forest Plan area.

Comment: The district court concluded that NMFS violated the ESA and the Northwest Forest Plan by arbitrarily and capriciously issuing biological opinions that contradicted scientific evidence. The court had determined that the "long-term/watershed approach" to jeopardy determinations meant that NMFS had virtually guaranteed that no timber sale would ever jeopardize the UR cutthroat trout or the coastal salmon. As a result, the district court enjoined the sales. "By employing a long-term/watershed approach in making jeopardy determinations, NMFS has virtually guaranteed that no timber sale will ever be found to jeopardize the continued existence of the Oregon coastal coho or Umpqua river cutthroat trout." Id at 1073.

With the current proposed amendments and flawed Draft SEIS analysis, action agencies are attempting, via regulatory amendments, to make such flawed analysis the standard, legal means of managing public lands. The Ninth Circuit decision quoted a very relevant section of the ACS that the Draft SEIS now

proposes to delete in order to accommodate proposed logging projects that would have severe detrimental effects to the ecosystem. PCFFA, 265 F.3d 1028 (9th Cir. 2001) The Ninth Circuit quoted the Northwest Forest Plan by stating that the "agency also must determine 'how the proposed project or management action maintains the existing condition or moves it within the range of natural variability.'" Id at 1036, quoting ROD B-10. Such a management approach goes to the heart of the Northwest Forest Plan and the Draft SEIS is clearly extracting it in order to detract from responsible land management. As the FEMAT states, "spatial and temporal connectivity within and between watershed is necessary for maintaining aquatic and riparian ecosystem functions." (Naiman et al. 1992).

The Draft SEIS states that the "ACS has been interpreted to mean that every project must achieve all ACS objectives at all spatial and temporal scales." The Draft SEIS does not cite any source for this assumed requirement because it is misinformation. Such a binding requirement does not exist. To the contrary, the District Court, in PCCFA specifically states that "NMFS is also correct that evidence in the checklists and matrixes that a project will result in some degradation does not, standing alone, constitute ACS noncompliance."

However, what the Northwest Forest Plan or other federal statutes does not permit which occurred in the cases leading to the PCCFA decisions was agency action that permitted "violations of ACS riparian reserve standards where there was no evidence of a rational connection between the proposed action and the attainment of ACS objectives." 71 F.Supp.2d 1063, 1073. Now, because the 9th Circuit has disallowed the agencies to permit numerous timber sales without adequate analysis of the effects of such sales on aquatic ecosystems, the Forest Service and the BLM are implementing these proposed regulatory changes in order to allow arbitrary and capricious behavior.

The Draft SEIS complains that the PCFFA litigation would prohibit any actions that have short-term impacts, even if they have long-term benefits. This is the basis of the assertion that the "misapplication" has blocked restoration projects. The courts never made an over-arching pronouncement disallowing activities that legitimately have only short-term localized effects. Instead, they cast doubt on the agencies' characterization of large-scale clearcut logging as having only short-term localized effects when it takes 25-30 years for trees to provide sufficient cover to regulate the flow of precipitation and when such logging affects runoff and flows beyond the location of the logging. The PCFFA litigation never challenged restoration activities. In fact, when the district court issued a preliminary injunction in PCFFA III, it was the agencies that stopped restoration activities under the guise of that injunction. The PCFFA plaintiffs immediately objected and the judge immediately clarified that neither the case nor the court's order stopped restoration activities. The fact that the agencies

have lumped restoration and harmful logging activities together caused some restoration projects to be tied up, but the agencies' feigned "confusion" over whether restoration activities themselves are prohibited by the PCFFA litigation is disingenuous. Again, the agencies never tried to comply with PCFFA II and III. Instead, they threw up their hands, claiming that they could not distinguish between clearcut logging and restoration activities to comply with the court rulings. They cite no rulings or even passages to support this absurd proposition.

Response: *The District Court invalidated NOAA Fisheries' ACS consistency analysis process in PCFFA II. The Ninth Circuit Court of Appeals affirmed the District Court. NOAA Fisheries utilized the same ACS consistency analysis process for all land management projects (i.e., for timber sales and restoration projects alike). Therefore, the type of project at issue is not the proper inquiry, because it was NOAA Fisheries' analysis process itself that was found to be arbitrary and capricious. No sales planned under the Northwest Forest Plan are "large-scale clearcuts."*

Additionally, the Draft SEIS explained the relationship between watershed restoration projects and timber sales. The Final SEIS provides further information about the integration of different types of projects. In many cases, timber sales provide the opportunity to accomplish restoration work that otherwise would not be funded. These types of projects overlap; many projects that accomplish forest management (e.g., fuels reduction) or watershed restoration (e.g., thinning in Riparian Reserves) also include an element of commercial harvesting.

Comment: Agencies such as the Roseburg BLM have been able to do more logging projects using restoration thinning silviculture practices as a result of the PCFFA litigation. This type of logging is necessary because much of the land in Douglas County is in the Coastal Mountain Range, and was clearcut 50 years ago. The thousands of acres of managed plantations today are at the age where thinning was planned and needed. Before the PCFFA litigation, instead of focusing on this needed thinning, BLM was busy converting more mature and old-growth forests to new plantations, even though there are very few mills left that need the larger sized logs. One result of the PCFFA litigation was to move the direction of BLM toward the needed thinning -- projects that have a short window (10 years or so) of opportunity for logging to be effective for forest health. Currently, we support BLM's efforts in projects like the Upper Umpqua Watershed Plan that propose to provide local workers and mills with up to 125 million board feet of timber. This incredible restoration project is a result of the Oregon BLM interim guidance. Without the clarification of the ACS that resulted from the PCFFA litigation, this project would likely not happen, and the thickly planted, old plantations would continue to stagnate without the same level of needed thinning. This reality is vastly different than the effects described in the Draft SEIS.

These needed thinning projects, which otherwise would not have happened on the current scale, are not a misapplication of the ACS.

Response: *Plantation thinning has always been part of the set of activities envisioned under the Northwest Forest Plan. However, harvest levels associated with Alternative 9 (as adjusted in Resource Management Plans) cannot be achieved over the long-term without harvest within older forests.*

Comment: The court found that NMFS is required by the Northwest Forest Plan to ensure ACS compliance at all four spatial scales. Its decision to measure ACS compliance only at the watershed level and its failure to evaluate ACS compliance at the project or site level, therefore, were found arbitrary and capricious. This ruling applies to the FS and BLM as well as NMFS.

In PCFFA I, Judge Rothstein held that NMFS could not rationally reach a "no jeopardy" conclusion in reviewing the agencies' site-specific biological opinions without analyzing site-specific compliance with the ACS. In PCFFA II, the same plaintiffs challenged four Biological Opinions issued by NMFS on the impacts of 24 federal timber sales. These sales, considered as a whole, lumped together good, bad, and truly ugly projects and included many which would have degraded habitat conditions at the project or site-specific level. The NMFS Biological Opinions, in finding "no jeopardy", stated that "there would be no ACS violation until the culminated degradation caused by individual: projects is measurable at the watershed level." (p. 13).

Judge Rothstein struck down the watershed-only compliance scheme, and thus the Biological Opinions, agreeing with plaintiffs that this spatial level analysis would mask the impact of any individual timber sale, and ignore the near-term impact on fish. She stated that the FEMAT report constituted the "best available scientific information", and that NMFS was therefore required by law (16 USC Section 1536(a) (2) to follow that report in its Biological Opinions. As interpreted by the judge: FEMAT stressed (and indeed this court held in its prior decision) that the ACS strategy must be implemented at all four spatial scales: regional, province (river basin), watershed, and site (or project)...Thus, not ~ must the ACS objectives be met at the watershed scale (as NMFS argues), each project must also be consistent with ACS objectives...(p. 15). Judge Rothstein also ruled that failure to consider short-term impacts of the projects constituted "arbitrary and capricious" conduct by NMFS.

The Proposed Action herein is a direct attempt by BLM and USFS to overturn this District Court's interpretation of FEMAT. However, the DEIS presents no scientific information to overturn FEMAT and its requirement for site-specific application of the ACS objectives--no watershed data, no data on affected species

-- probably because there is none to support a watershed-only approach. Therefore, the DEIS tries to reinterpret FEMAT to serve its own purposes, contrary to the court decisions. This it cannot do with any legal force.

Response: *The agencies have proposed limited changes to language in the Northwest Forest Plan Attachment A to better reflect agency intent in land management. NOAA Fisheries (formerly NMFS) no longer relies on ACS consistency to make Endangered Species Act determinations for fish. The Draft SEIS discussed the relationship between this ruling and the proposed amendment. The Final SEIS includes further discussion about why the appropriate scale for evaluating progress toward attainment of ACS objectives is the fifth-field watershed and broader scales.*

Comment: The Draft SEIS gives a very selective and incomplete portrayal of logging at issue in the PCFFA cases and fails to disclose that logging can seriously harm salmon and their habitat. The Draft SEIS asserts that the timber sales at issue in the litigation had minimized roadbuilding, employed yarding mitigation, and had only short-term, localized sediment impacts usually due to road removal or maintenance activities that have long-term benefits. It further asserts that the current wording of the ACS has been interpreted to preclude sales that have only minimal aquatic impacts. Draft SEIS at 8.

As discussed above, PCFFA II actually challenged large clearcuts that denuded the landscape, exacerbating peak flows, intensifying runoff, and increasing sedimentation. The agencies identified these impacts at the site scale, but found them never to be problematic because they did not aggregate the impacts from past activities and other sales. Instead, they looked across an entire fifth field watershed, ten or more years into the future, and predicted that the number of acres of trees removed would not have a measurable effect at the watershed scale. As the Ninth Circuit held, this approach ignored very real cumulative effects and the harm to several generations of salmon that would occur before the time frame assessed by the agencies. The Draft SEIS similarly skirts over the very real effects of the logging at issue.

Response: *The agencies disagree with your portrayal of these sales as large clearcuts denuding the landscape. Whether the disturbance in the watershed vegetation cover and the consequential affect on hydrology by the sales would be outside of the range of natural variability can only be ascertained at watershed levels and over longer time intervals. The Draft SEIS provided reasons why progress toward achievement of ACS objectives is most appropriately evaluated at fifth-field watershed or broader scales. The court's concern in the PCFFA II litigation was whether the jeopardy analysis was overlooking possible short-term impacts to the listed fish population by relying on a finding of ACS consistency that only concerned itself with watershed level effects over long time intervals. The Draft SEIS stated that NOAA Fisheries (formerly NMFS) will no longer rely upon ACS consistency in order to make Endangered Species Act section 7 jeopardy*

determinations on land management projects proposed in the Northwest Forest Plan area. Site-specific and cumulative effects on fish will be considered in Endangered Species Act section 7 consultation.

Comment: Your statement on p. 8 that "the timber sales covered by the invalidated biological opinions minimized construction of roads" is at odds with what I've witnessed ...where roads are plotted through stands of forest in such a way as to require the harvest of most of the larger trees just to make way for construction.

Response: *Federal land managers comply with agency policies when planning new roads. No agency policies suggest that roads be routed to remove the largest trees. The Northwest Forest Plan requires land managers to minimize the need for road construction and to route roads to avoid riparian areas as much as possible. The project records for the timber sales covered by the invalidated Biological Opinions in the PCFFA litigation support the agency contention that these projects minimized road construction.*

Comment: The Court in PCFFA I agreed with NMFS that "evidence in their checklists and matrixes that a project will result in some degradation does not, standing alone, constitute ACS noncompliance" and that "the Programmatic Biological Opinion does anticipate some harmful activities under the Northwest Forest Plan." 71 F. Supp.2d 1063, (W.D. Wash. 1999). Thus it was not the Court's view that all ACS objectives had to be met at all spatial and temporal scales...There is simply no evidence that the current interpretation is that "(a)ny project that may result in site-level disturbance to aquatic or riparian habitat, no matter how localized or short-term, could be precluded under this interpretation." Restoration projects moved forward from the PCFFA litigation and NMFS has been approving others with concurrence letters.

Response: *The Draft SEIS accurately portrayed recent court decisions. The Final SEIS provides further information about types of projects that may have been stopped or delayed as a result of misinterpretations of the existing ACS language. As discussed in Chapter One of the SEIS, the irony of the PCFFA litigation is that restorative actions (such as culvert replacement) are the very actions that caused the localized, short-term disturbance that caused the potential adverse effect on fish.*

Comment: We believe that what the Draft SEIS is presenting as an interpretative problem is actually the Court understanding the Northwest Forest Plan language, citing it, and stopping projects that were out of compliance, while other projects were allowed to go forward. Further, the problem in the PCFFA litigation was not somebody's unrealistic expectations for the ACS at multiple scales, rather the problem was that NMFS had not shown how it was requiring ACS compliance at any scale.

Response: *The ACS SEIS explains why the agencies believe that the current language has been misinterpreted. The proposed amendment clarifies information needed to demonstrate compliance with the ACS. This clarification is intended to improve agency success in planning and implementing projects that follow the Northwest Forest Plan principles.*

Comments about Integration of Vegetation Management and Restoration

Comment: The agencies have not demonstrated a link between watershed restoration funding and monies derived from commercial timber harvest. Contracting for the commercial timber sale program requires the return of any money generated from timber sales directly to the U.S. Treasury. That money then may or may not be reallocated to watershed restoration, or, as has occurred historically, to additional timber sale preparation and implementation. We agree with FEMAT that a comprehensive watershed restoration program is required to reverse the effects of decades of mismanagement. FEMAT, V-J. Consequently, we believe that because watershed restoration is expensive and not based on commodity output, Congress must directly appropriate funds for this worthwhile work. We point out that in the 1970s and 1980s - when the timber harvest level reached its peak - restoration funding was almost nonexistent, which belies the agencies' contentions here. To claim that the lack of commercial timber harvest - due to the implementation of watershed protections - has resulted in little watershed restoration is disingenuous. Basing a decision on baseless information is arbitrary and capricious. 5 U.S.C. [SEC] 706(2)(A).

Response: *The agencies integrate projects as much as possible. Integrated projects are efficient because they take advantage of opportunities to meet a variety of needs. Road rehabilitation, fuel hazard reduction, and forest health improvement are examples of actions that can occur within a timber sale contract.*

Comment: With respect to restoration projects, there is a need to decouple them from sales which cause riparian/aquatic degradation in the first place, most likely by decoupling the funding mechanisms. To the degree that implementing these restoration projects is the "Purpose and Need" for the language changes, there is

no rational relationship between better ACS restoration efforts and the Proposed Action, which will allow worse degradation to occur in order to allow restoration projects elsewhere...Any confusion that has arisen is self-imposed by the agencies, not ACS language, and is caused by their continuing to link very destructive timber sales with restoration projects.

p. 35-37. If restoration projects do not proceed as they should at present, it is not because they cause short-term damage to aquatic/riparian environments in violation of site-specific ACS objectives. It is because they are tied to timber sales destined to cause more damage to aquatic/riparian areas, in violation of the ACS and therefore challenged by environmental groups, salmon fishermen or others. The Proposed Action will allow these damaging sales to proceed, using funds derived thereby to restore damage from previous sales. This makes no sense and will result in less, not more watershed restoration.

If restoration projects were decoupled from sales they would provide employment for those experienced with working in the woods. As needed as the restoration projects are, I would prefer that they not proceed so long as they are tied to timber sales that cause greater damage.

Taking into account that BLM and USFS services are supported by timber receipts (including restoration projects), and evaluated accordingly (see BLM Information Bulletin), these agencies would likely attempt to design sales such as those in PCFFA I and PCFFA II, using exceptions to the Standards and Guidelines in order to get at timber within the reserves.

The statement "At least some watershed restoration projects... might not be implemented" (under No Action) is too qualified to demonstrate a real need for the Proposed Action. The "No Action" discussion (p. 36) describes the real problem (restoration projects tied to timber sales), and therefore the real solution. Fund restoration projects separate from timber sales, and the projects will actually have an overall positive effect on the watersheds.

If active restoration is less under the No-Action alternative, it is because of funding mechanisms and proposed sales that damage riparian/aquatic areas, not the difference in the alternatives.

Response: *As discussed in the Draft SEIS and the BLM Information Bulletin in Appendix A, agency decision makers are “encouraged to accelerate the balanced implementation of the Resource Management Plan and Northwest Forest Plan, utilizing timber sales as a treatment tool...as an appropriate treatment necessary to accomplish ACS...objectives as identified in watershed analysis...” This is not considered a problem, since it provides opportunities to achieve multiple objectives with integrated projects. The agencies considered an alternative that would “decouple” timber sales from other types of projects (this alternative is eliminated from detailed study in the Final SEIS).*

Comments about the Range of Alternatives

Comment: On page 21, the Draft SEIS states: “The Need for Action substantially limits the range of reasonable alternatives available for analysis and provides a relatively narrow scope for this action.” The agencies probably think this is a neat little trick they have to manipulate the purpose and need in order to limit the scope of alternatives, but the public finds it offensive, and a judge will probably find that it violates the spirit and intent of NEPA. The courts have also held that in defining a very narrow purpose and need, the agencies run afoul of NEPA...An agency may not define the objectives of its action in terms so unreasonably narrow that only one alternative from among the environmentally benign ones in the agency's power would accomplish the goals of the agency's action, and the EIS would become a foreordained formality. *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991).

Response: *The scope of a project is defined by the context and intensity of potential environmental effects. Since this is a limited change in language intended to improve agency success in following an existing plan, the scope of the alternatives is necessarily limited.*

Comment: The Draft SEIS lacks a reasonable range of alternatives. In particular, Oregon Natural Resources Council suggested that the Forest Service and BLM consider protecting all mature and old growth forests. On page 21 of the Section “Alternatives Considered but Eliminated from Detailed Study,” the EIS states that an alternative (No Cutting or Removal of Trees Older Than 80 years) was eliminated because it does not respond to the Need for Action. However, it remains unclear why the lead agencies believe this would not respond to the need for action. Other reasonable alternatives included adding mitigation measures to ensure ACS consistency on restoration projects, and streamlining beneficial restoration projects. *Id.* at 23.

Another alternative is to implement the ACS as stated in the Northwest Forest Plan as clarified by the Rothstein Court in the PCFFA litigation. This DEIS also re-examines the overall strategy of the Northwest Forest Plan in light of lower than expected timber harvests, and proposes amending the ACS portion of the Plan. Thus, it cannot fairly dismiss other alternatives that also propose to amend the plan on that basis. The agencies should consider additional alternatives if for no other reason than to inform the public and other cooperating and commenting agencies so they are better able to make informed comments and recommendations to the decision-maker. The Secretaries are not supposed to decide in a vacuum. They should be deciding based in part on the concerns and comments of informed agencies and an informed public. We are just not as smart as the Secretaries, so please humor us, and consider some more alternatives that can highlight some of the significant issues. Consider it helping the public to help the Secretaries.

Response: *The ACS SEIS discusses alternatives considered but eliminated from detailed study. The range of alternatives considered includes those that are dismissed from detailed study. The agencies considered a modified Proposed Action (Alternative A) to respond to issues of concern to the public.*

Comment: The Draft SEIS states that the ONRC alternative would be similar to Alternative 1 in the Northwest Forest Plan Final SEIS, which was not selected for implementation. Alternative 1 in the 1994 FEIS did not allow silviculture in reserves. It even forbade thinning in dense young planted stands. This alternative however does allow thinning in dense young stands in the reserves, which changes the analysis considerably from that of Alternative 1. Due to the prohibition on thinning, the 1994 EIS gave Alternative 1 poor marks for both timber production and recovery of old-growth. This alternative will accomplish all of the agencies' objectives and it will accomplish these objectives with much more certainty than the Proposed Action.

We believe that the SEIS should not only consider an alternative that eliminates logging of mature and old-growth forests, but one that emphasizes the restoration of the millions of acres of plantations and previously logged young-growth forests that are most in need of thinning, fuels reduction, and other restoration activities.

This new forest management paradigm has something for everyone: it would protect our last best forests, it would create thousands of jobs through thinning and other restoration activities, the huge controversy associated with logging old forests would be greatly reduced, agency planning efforts would be streamlined; timber volume (as a by-product of restoration) will actually be higher than the amount of timber volume available under the highly- contentious old-growth logging regime, and the regional economy would benefit from improved "ecosystem services" provided by a forest that is both protected and restored. We request that the SEIS adequately address and fairly consider all of these objectives.

Response: *A wide range of alternatives was considered in the Northwest Forest Plan FSEIS. The Secretaries of Agriculture and the Interior could have decided to implement an alternative that blended aspects of Alternative 1 (such as no commercial harvest in mature stands) and aspects of Alternative 9 (silviculture allowed in reserves). They decided to implement Alternative 9. The ACS SEIS considers alternatives to increase agency success planning and implementing projects that achieve goals of Alternative 9. The "ONRC" alternative would not increase agency success in achieving the goals of Alternative 9.*

The 1994 Northwest Forest Plan ROD did include the lack of restoration silviculture within reserves as a reason why Alternative 1 was not selected. The No Action alternative considered in the ACS SEIS would not reflect Alternative 1 in this regard. However, the current level of timber harvest is more similar to harvest levels associated with Alternative 1 than 9.

Comment: An alternative eliminated from detailed study would have streamlined procedures for planning and implementing restoration activities, while leaving the existing language intact for logging, mining, and other extractive activities. This may be a good idea, and should be considered a reasonable alternative. It makes sense as a way to implement the "maintain and restore" language in the Northwest Forest Plan ROD. Projects that "restore" (such as culvert removal or road obliteration) are more valuable and get a little more leeway, while projects that lack restorative qualities (like old forest logging) only maintain (or even risk degrading) should get more scrutiny. The Draft SEIS states that: "It would lead to further confusion over which standards apply in the case of connected actions such as culvert upgrades associated with a timber sale haul route."

This example is slightly challenging but can be sorted out by examining the underlying purpose of both the log hauling and the road. If the road is a major travel way (like a two digit forest road) and the log hauling is incidental to other dominant uses, then the culvert upgrade could be considered restoration to prevent future blowouts or improve passage at a intentional and necessary

road/stream crossing. If the log hauling is necessary for legitimate plantation restoration or fuel reduction, and consideration has been given to alternate routes and methods of log removal, then the culvert upgrade can be considered part of the restoration project. If the logging is a commodity timber sale and if the road is mainly a log haul road that has limited other uses, the road should probably be decommissioned and the culvert removed rather than have the culvert replaced.

In discussion of the Streamline Procedures for Planning Restoration Activities, the EIS states, "Applying different approaches to the ACS to different types of projects has no valid rationale and would not resolve ambiguities within the current language." There appears to be a rationale to apply different approaches to different types of projects: restoration projects differ sharply in purpose from logging and extractive activities and may be more likely as a group to meet the long-term goals of the ACS. This alternative, however, may be better characterized as being unworkable because restoration activities are often incorporated as parts of extractive projects, and extractive and restoration activities might also be equally unlikely to avoid short-term impacts at the project site scale. Therefore, we suggest removing the words, "has no valid rationale and . . .". We also recommend explaining in a little more detail why you have not chosen this alternative to analyze in the EIS.

Response: *This comment resulted in modification to discussions about the "Streamline Procedures" Alternative in the Final SEIS. The Final SEIS now states that, "This alternative was eliminated from detailed study because it does not address the underlying need for action, which is to follow Northwest Forest Plan principles and achieve its goals. Alternative 9 was selected within the Northwest Forest Plan partly because it provided higher amounts of timber than some other alternatives. This alternative would put impossible expectations on logging (and other "non-restoration") projects because short-term disturbance would not be allowed. The ACS was never intended to regulate or prohibit these projects outside Riparian Reserves and Key Watersheds.*

Comment: Association of Oregon Counties and the Association of O & C Counties do not believe that the proposed editorial changes to selected portions of the ACS as set forth in the preferred alternative in the Draft SEIS meet the minimum threshold requiring preparation and consideration of a SEIS. Because the proposal is simply to make clear the original intent, there should be no environmental impact that has not already been addressed in the NEPA analysis conducted in 1993-94. Presumably, the NEPA analysis completed by the agencies at that time took into account the agencies' intended application of the ACS. AOC and the Association of O & C Counties believe that an EA would have satisfied the NEPA requirements for this proposed action. For this reason, we believe that the analysis in the Draft SEIS is more than sufficient. We are concerned, nevertheless,

that the Draft SEIS only addresses two alternatives, the no action alternative and the preferred alternative. We suggest that the final EIS should consider additional, alternative language options, each of which would achieve the same goal of restoring the original intent regarding application of the ACS.

Response: *A modified Proposed Action (Alternative A) is included in the Final SEIS.*

Comment: We are concerned that the preferred alternative may not fully achieve its intent, the elimination ambiguity regarding application of ACS goals. The agencies' proposed language attempting to clarify that a project does not have to comply with ACS objectives needs to be more forceful and explicit. To address the issue we recommend the changes below to the proposed language. These changes are designed to further clarify and eliminate ambiguity.

ROD. p. b-10. para.. 2:

"The four components of Aquatic Conservation Strategy (Riparian Reserves, Key Watersheds, watershed analysis and watershed restoration), in combination with application of pertinent standards and guidelines, are expected to maintain and restore ecosystem health in the long-term at the watershed and broader scales. No site-scale project can, or should be expected to achieve ACS objectives. To follow the ACS at the site-scale, decision makers must only demonstrate that projects comply with standards and guidelines in sections C and D. References to ACS objectives in the standards and guidelines in Sections C and D do not require that decision makers find that site-scale projects will attain ACS objectives."

ROD. p. C-2 , insert after paragraph 2:

"Some standards and guidelines refer to attaining, being consistent with meeting, or achieving ACS objectives. The intent of these references is that projects will use relevant information from applicable watershed analysis to provide context for project planning. These references do not mean that decision makers must find that a site-scale project will necessarily attain, be consistent with, or meet ACS objectives."

Response: *These alternatives were considered but eliminated from detailed study because the wording suggestions are almost exactly the same as the Proposed Action.*

Comment: No more logging plans should be permitted, and existing ones should be suspended, until the long-term consequences can be comprehensively assessed, especially in sensitive places such as old-growth, areas that have not recovered from damage caused by past logging, and anywhere slopes are steep or unstable.

The overriding criteria for all rules must be that they are not fixed but are contingent on the health of the salmon and other threatened species.

Response: *The Northwest Forest Plan FSEIS considered a range of alternatives for federal land management within the Northwest Forest Plan area. Alternative 9 was selected. It does not contain a mitigation measure such as that suggested. Such an alternative would not address the purpose and need for action. Site-specific environmental analysis addresses the long-term consequences of logging plans.*

Comment: The Draft SEIS recognizes (page 49) that large forest openings cause peak flows to increase in streams during the wet season and decreases flows in streams during the dry season. Regeneration harvests degrade the watershed also by risking additional sediment delivery into streams by landslides or road use. The Draft SEIS simply says these effects will be "mitigated". Instead, the Draft SEIS should have considered an alternative that avoided, not mitigated the degrading effects. The results of mitigation can only be evaluated years later, when it is too late. The entire basis of Ecosystem Management is to avoid degrading effects. In fact, the Northwest Forest Plan warns (B32) that mitigations like in- stream structures must not be a replacement for poor forestry practices. It also says "Do not use mitigation or planned restoration as a substitute for preventing habitat degradation." (C-37)

Response: *Regeneration harvesting outside reserves may have effects such as those discussed in the Draft SEIS. These effects would be evaluated as a part of project-specific NEPA analysis. By selecting Alternative 9, the Secretaries of Agriculture and the Interior documented their intent to develop projects that follow Northwest Forest Plan principles. Avoidance of all degrading effects is an impossible standard to meet. All of the Final SEIS alternatives are consistent with the Northwest Forest Plan ecosystem management principles.*

Comment: We suggest that all the language in the ROD regarding watershed analysis be left in place, and the following text (underlined) added as a Section C watershed analysis standard and guideline: Watershed analysis must include a description of the existing condition, a description of the range of natural variability of the important physical and biological components of a given watershed. Once a watershed analysis is completed for a watershed, the project record for each project proposed in that watershed will demonstrate how the management activity is consistent with each of the Aquatic Conservation Strategy objectives, including a finding that the proposed project or management action maintains the existing condition or moves it within the range of natural variability.

If the Draft SEIS is hoping to convey that not all ACS objectives can be fully achieved at the site-scale, something with which we fully agree, we recommend

that all of the language in the ROD be left fully intact and that the language proposed underlined below be added: While some objectives can only be fully achieved at a watershed or landscape scale, each project must be analyzed for its consistency with each Aquatic Conservation Strategy objective, and must be found to be consistent with the standard specified in the Standard and Guideline (for example, must "attain" or "not retard or prevent attainment.") The analysis must culminate in a synthesized conclusion of overall ACS consistency that considers all of the ACS objectives relevant to a given action. (ROD, p. B-9). The intent (of the ACS) is to ensure that a decision maker must find that the proposed management activity is consistent with the Aquatic Conservation Strategy objectives. While some objectives can only be fully achieved at a watershed or landscape scale, each project, including projects or portions of projects not located within Riparian Reserves or Key Watersheds, must be found to be consistent with the ACS objectives. Projects that would retard or prevent attainment of these objectives would not comply with the ACS. The analysis must culminate in a synthesized conclusion of overall ACS consistency that considers all of the ACS objectives relevant to a given action. (ROD, p. B-10 (proposed for deletion by the Draft SEIS at p. 18)).

Response: *The Final SEIS discusses this type of alternative (see Alternatives Considered But Eliminated From Detailed Study). Both of these suggestions are very similar to existing text. Neither would meet the need for increased success implementing projects that achieve Northwest Forest Plan goals. Suggestions such as these contributed to language in Preferred Alternative A.*

Comment: Rather than stating that "individual projects will not be required to fully meet all ACS objectives" the proposed language might state that projects will not retard or prevent the attainment of ACS objectives.

Response: *The Proposed Action was modified (Alternative A) in the Final SEIS to retain existing language: "Under the Aquatic Conservation Strategy, the agencies must maintain existing conditions or implement actions to restore conditions at the fifth-field watershed scale over the long term." Alternative A also states that, "To comply with Riparian Reserve Standards and Guidelines that reference ACS objectives, the decision maker must complete an analysis that includes a description of the existing condition, a description of the range of natural variability of the important physical and biological components of a given fifth-field watershed, and how the project or management action maintains the existing condition or restores it toward that range of natural variability." Alternative A therefore meets the intent of the ACS to "ensure that attainment of ACS objectives is not retarded or prevented."*

Comment: Ninth Circuit Court decisions have struck down the Forest Service reliance on watershed analysis when it was not adequately incorporated into the

environmental documents. The proposed language should direct that the environmental documentation for the project also incorporate the watershed analysis by reference.

Response: *An alternative to make a watershed analysis a decision-making document is considered (but eliminated from detailed study) in the ACS SEIS. The proposed amendment includes language that clarifies the role of watershed analysis, consistent with the 1995 Federal Guide for Watershed Analysis and the Northwest Forest Plan.*

Comment: Depending on how the ACS is interpreted, a fundamental re-design of how the ACS applies to permitted ski resorts may be required. The re-design could include a matrix of modified standards and guidelines and "best management practices" for special use permit lands. Their combination would insure a significant degree of protection for riparian areas, while allowing forest cover removal for optimal ski trail design.

The Draft SEIS should not have eliminated the alternative to exempt ski areas from ACS standards and guidelines (see page 22). The Crystal Mountain Master Development Plan Draft Environmental Impact Statement document (August 2001) contains example after example of changes to chairlifts, trails, bridges and parking lots which were made to avoid potential conflicts with the ACS according to the USFS ID Team. Were all of the changes made by a USFS ID Team really necessary to a master plan which was originally designed to be environmentally sensitive by a very competent national planning firm? According to the language as written in the ROD for the Standards and Guidelines concerning the ACS the USFS ID Team apparently thinks so. We strongly urge you find resolve for the language that is so detrimental to development of extremely limited land available for winter recreation.

With good regularity, the development of high quality ski trails directly conflicts with the riparian reserve setback requirements of the ACS. Ski area operators believe that ecosystem health, and the long-term viability of Region 6 ski centers, would both benefit from the agency's consideration of an array of BMPs and modified standards and guidelines that specifically address the unique attributes of winter sports facilities (in place of regular adherence to the standards and guidelines outlined in sections C and D of Attachment A). Ski run development should not be treated in a similar fashion as commercial timber harvesting. Periodically, ski area operators will need to modify winter sports facilities to adjust to changing user demands, such as the modifications that have been necessitated by the advent of snowboards or growth in visitation. Facility enhancements, particularly the development of additional winter sport facility infrastructure, must continue to fall under the Northwest Forest Plan's framework for recreation management.

Response: *The Draft SEIS explained why the “exempt ski resorts from ACS standards and guidelines” alternative was eliminated from detailed study. Clearly, the standards and guidelines were intended to be applied to ski areas. This alternative would not respond to the Purpose and Need. It would not clarify language in the ACS that hampers the agencies’ ability to meet Northwest Forest Plan objectives. The scope of this SEIS is strictly limited to clarify ACS intent; this alternative would deviate from the intent to apply the Standards and Guidelines to activities within Riparian Reserves on federal lands within the Northwest Forest Plan area.*

Comment: We support the Proposed Action, with a request for one additional change. The change we propose is to allow off-site mitigation to be used to attain the ACS objectives. This will allow land managers to consider combining mitigation projects with project proposals that will further the overall objectives of the Northwest Forest Plan. It is recommended that this flexibility be added to encourage the implementation of restoration projects within watersheds. Since the overall intent of the Northwest Forest Plan was to raise the health of the watersheds by first doing watershed analysis, identifying restoration projects, and implementing those projects over time, allowing a site specific proposed action to include additional off-site restoration projects as part of a mitigation strategy will further the success and speed of improved watershed health. In some cases, this may be the only realistic way some identified and important restoration projects will be funded and implemented.

Response: *None of the alternatives restrict a federal land manager’s ability to consider off-site mitigation in projects. Projects must be designed to comply with standards and guidelines in Resource Management Plans.*

Comments about the Merits of the Alternatives

Comments about the Merits of the No Action Alternative

- **Comment:** I’m very concerned about changes that have been proposed to modify the Aquatic Conservation Strategy of the Northwest Forest Plan. I understand that, if the changes are allowed to take effect, logging and road construction will be excluded from ACS regulation. Please choose the “no action” alternative.

Response: *Under all alternatives, logging and road construction projects would be required to follow the ACS. Logging and road construction are subject to specific Standards and Guidelines applicable to each land allocation. The Riparian Reserve land allocation is one of the four components of the ACS; compliance with Riparian Reserve standards and*

guidelines will “ensure that attainment of ACS objectives is not retarded or prevented (Northwest Forest Plan ROD, page B-12).”

Comment: The cumulative impacts of natural disturbance, private land degradation, and the short-term impacts of restoration activities leave no room for commodity production on federal lands. Private land management practices are still causing serious adverse effects on the habitat requirements for listed fish. The magnitude of needed restoration and its associated short-term impacts leaves no room for non-restorative commodity production. Natural disturbances such as the Biscuit fire also use up the limited available “disturbance space” and make commodity production impossible. There is a limited amount of “disturbance space” that these listed fish can tolerate and that available disturbance space is completely occupied by actions on non-federal land, plus necessary restoration actions on federal lands that have short-term impacts. There just isn't any disturbance space left over for commodity production per se. Therefore, No Action should be selected.

Response: *All of these issues, including the potential for large-scale disturbances, were considered in the 1994 Northwest Forest Plan FSEIS. The Secretaries of Agriculture and the Interior selected Alternative 9, with allowed for sustainable timber production. The Siskiyou National Forest and Medford BLM will consider the effects of the Biscuit Fire on “commodity” targets such as timber sales at the Forest and District Resource Management Plan level.*

Comment: Timber sales closer to levels anticipated in the Northwest Forest Plan is not a positive outcome of the Proposed Action if sales resembling those in the appended court cases are allowed to proceed. If these are the “vegetative management” projects that will be delayed or stopped, then “no action” alternative is preferable.

Response: *The Draft SEIS described the way the sales were characterized by the agencies as part of the court record. Some timber harvesting within late-successional and old-growth stands, including some regeneration harvest and associated road work, is needed to achieve PSQ associated with Alternative 9 in the Northwest Forest Plan FSEIS (and adjusted in individual RMPs).*

• **Comment:** Since the environmental consequences of the alternatives are “highly speculative”, the more conservative, status quo “no action” alternative should be chosen.

Response: *The rationale for the final decision will be published in a Record of Decision.*

- Comment:** The existing rules represent a consensus among the various parties who crafted the Northwest Forest Plan in 1994. We find it upsetting that the Forest Service now wishes to supplant this consensus by altering the scope of the ACS. The existing language of the ACS should be preserved without changes. The ACS rules are functioning exactly as intended. That is, they serve as a check against the rampant ecosystem destruction that has characterized so much of Forest Service policy.
- Response:** *The various parties who crafted the Northwest Forest Plan did not intend for the ACS objectives to be interpreted as standards to be applied at all scales. The Draft SEIS stated that the agencies have had difficulty planning and implementing projects that follow Northwest Forest Plan principles (as indicated by annual sale quantity sold). Part of the difficulty is due to impossible expectations raised by interpretations of ACS language.*
- Comment:** I would like to say I'm against the change in rules in the ACS. I feel it would lead to degrading of the watershed due to looking at each sale by itself and not taking into account the accumulative change in the watershed. It's like one person throwing a pop can in your yard, kind of upsetting - but should a thousand people throw a pop can in your yard it is a major problem.
- Response:** *The National Environmental Policy Act requires cumulative effects analysis for proposed projects to account for "accumulative change." A thousand pop cans thrown in one's yard could have both adverse and beneficial effects; pop cans may be returned for deposit within the Northwest Forest Plan area.*
- Comment:** The proposed changes to the Aquatic Conservation Strategy would harm our water quality and stop the progress your agency has made over the last decade to protect salmon and rebuild the forests that the logging companies destroyed. Why change something that is working and is workable for all parties? The plan has been built from "real" science based on sound forest ecology research and science-based management philosophy has paid off here in the Northwest. I see evidence of this in the Mt. Baker-Snoqualmie Forest south of I-90. There are vast acres of clearcuts from the 1980's that have finally been replanted. They are growing back and this will help revitalize the many streams running through the area. Maybe someday the spotted owl, marbled murrelets and other old growth dependent species will learn to live in these "new" forests. But if we destroy the existing old growth forests now, these species may never have a chance to adapt. The salmon and steelhead may never return. I strongly urge you to choose the no action alternative for the ACS EIS changes.
- Response:** *The commenter does not describe how limited changes to language the ACS would "harm water quality and stop progress to protect salmon and rebuild the forests." The current interpretations are not "working" as they establish an expectation that may be impossible*

to achieve for projects that otherwise follow Northwest Forest Plan principles and would not retard or prevent attainment of ACS objectives at the watershed scale. Under all alternatives, clearcuts will be regenerated and restoration will occur. The Northwest Forest Plan intended that a sustainable level harvesting of late-successional and old-growth timber would occur within certain land allocations.

Comment: We think that changing the existing rules of the Aquatic Conservation Strategy will degrade salmon habitat and threaten struggling runs. We believe that the proposal will allow timber sales to proceed where they would harm salmon species listed under the Endangered Species Act. For this reason, we request that you retain the ACS rules as written rather than changing them as Secretaries Veneman and Norton propose.

Response: *The Biological Assessment is in Appendix D. The amendment itself is not expected to change protections for salmon. The BA indicates that implementation of some Resource Management Plans may be likely to adversely affect some populations of listed salmon, however no plans would jeopardize the continued existence of any species.*

Comment: The No Action Alternative should be chosen. If you cannot meet or attain ACS objectives on a site-scale project, why even have the objectives?

Response: *Many goals of Resource Management Plans cannot be attained by a site-scale project but are to be attained over a long period of time. The ACS objectives will be achieved through compliance with land allocation-specific and general standards and guidelines, given the context provided by analysis at the watershed scale.*

Comment: [Re:] p. 30-33 (Changed Conditions/New ESA listings/Appendix D) As the text states, even with the widened Riparian Reserves of Alternative 9, the probability of maintaining viable at-risk fish populations is 80% under the current "standards and guidelines." These at-risk species have continued to decline; my tabulation of Appendix D listings showed 25 new anadromous fish listings, or 89% of the total, since Northwest Forest Plan was enacted. Within the Northwest Forest Plan area, there are also 27 plant species, 10 invertebrate species, 8 freshwater fish species, 2 amphibian species, 8 bird species, and 6 mammal species listed under the ESA.

These listings occurred, it should be noted, with 98% compliance with Northwest Forest Plan standards and guidelines (at least, for the 21 projects and watersheds monitored in 2001) and reduced timber sales due to court challenges. In addition, the text states that roughly 83 sub-basins within the Northwest Forest Plan area contain water-quality impaired streams because of high water temperatures and/or sediment loads, characteristics which are highly detrimental to salmonids, and that several of these listings occurred since 1994. Even if the increase in listings reflects a backlog (i.e., the species/stream was in trouble prior to Northwest Forest Plan enactment) and even if activity on private/state forestlands precludes a 100% guarantee that species can recover, or not be listed in the first place, the increased number of ESA listings, as well as the continued decline in species already listed (such as the Northern Spotted Owl), calls for the most conservative, non-discretionary application of the ACS.

The listing of salmon and steelhead in the Northwest Forest Plan area indicates that the ACS, as it has been implemented by the agency, is not reversing the downward trend of these important aquatic species. Therefore, relaxing the standards and guidelines runs counter to the intent of FEMAT (e.g., pp. V-64 through V-72) and applicable federal laws such as the National Forest Management Act (NFMA) and the ESA. Thus, "No Action" should be the preferred alternative.

Response: *The Northwest Forest Plan FSEIS recognized future listings could occur even with implementation of the Plan (1994 FSEIS page 3&4-202). The proposed amendment would not "relax" standards and guidelines or make standards and guidelines "discretionary." The Biological Assessment in Appendix D concludes that implementing the Resource Management Plans as amended by the Preferred Alternative would not jeopardize any listed species."*

Comment: I have to express my deep concern with these and other proposals that threaten environmental protection set in place by the Northwest Forest Plan. As forests dwindle, they are more and more important for recreation. This includes hiking,

fishing, camping. These are values that many, many people share. However, by weakening the rules regarding conservation and protection against erosion, you are disregarding this vital need in favor of short-term gain and long-term destruction. As the agency managing public lands, your actions should reflect public opinion, not a small minority of corporate timber interests. The rules which are currently in place at least address these concerns.

Response: *The Northwest Forest Plan FSEIS considered the effects of the alternatives on recreation. The decision to implement Alternative 9 reflected the balance the Secretaries of Agriculture and the Interior are attempting to achieve. Under all alternatives, the agencies will attempt to implement projects that follow Northwest Forest Plan principles. As an agency managing public lands, actions must be consistent with applicable laws, regulations and policies that apply to Federal land management.*

Comment: The multi-ownership aspect of watersheds is one reason the No Action alternative is preferable, since it guarantees a more conservative approach on federal lands.

Response: *The 1994 Northwest Forest Plan FSEIS considered a range of alternatives given the multi-ownership aspect of watersheds. This aspect has not changed since 1994. The Secretaries of Agriculture and the Interior selected Alternative 9.*

Comment: If some, or even most, of the projects planned by the agencies are in fact stopped and/or delayed by the present "good" wording of the S&G's, then: "Good! And, "so be it!" That is because, in their present form, the projects are obviously either environmentally objectionable or non-viable, and they need to be either redesigned or aborted.

Response: *The agencies do not agree that projects that have been stopped or delayed are necessarily environmentally objectionable or non-viable. The agencies planned these projects to comply with laws, regulations, policies and standards and guidelines as directed in Resource Management Plans. The Draft SEIS discusses how the agencies characterized sales in the court record for the PCFFA v. NMFS litigation.*

Comment: The No Action Alternative's requirement that activities must be consistent with ACS objectives provides a mechanism for properly sizing riparian reserves so that they afford essential functions for stream protection. These provisos of the No Action Alternative also provide a mechanism for expanding riparian reserves as needed. These are monumental differences between the No Action and Action alternatives with respect to riparian reserves and the effects on aquatic resources. The No Action Alternative is a vast improvement over the severe inadequacies of merely assuming that ACS goals are met by implementation of standards and guidelines for riparian reserve width under the Proposed Action,

which allows riparian widths to be set arbitrarily, causing long-term aquatic habitat damage.

Response: *The proposed amendment would eliminate the expectation that projects achieve ACS objectives that are only achievable over time at the fifth-field or broader scale. This is not a monumental change. Resource Management Plans continue to provide mechanisms to expand or reduce Riparian Reserve widths. These adjustments are subject to NEPA and would not be set arbitrarily. Under all alternatives, Riparian Reserves would continue to be managed to maintain and restore aquatic ecosystem health over broad landscapes.*

Comments about the Merits of the Proposed Action

Comment: Clarification of the ACS language will encourage federal forest managers to move ahead with projects that they deem necessary for the health of the forest. In Northern California, this will allow projects to move forward that promote wildlife habitat diversity and hazardous fire fuels reduction. Additionally, managers will be able to treat areas of high mortality, such as disease or insect outbreaks, or damage from fires and wind. If managers had been able to treat heavy fuels from a major windstorm in 1998 that caused extensive damage to the Six Rivers National Forest, the 1999 Megram fire might not have been as large or severe.

We strongly support the proposed language clarification to the Aquatic Conservation Strategy portion of the 1994 record of decision for the Northwest Forest Plan; National Forests and Bureau of Land Management Districts within the range of the Northern Spotted Owl. We believe that this clarification is essential to complying with the intent of the Northwest Forest Plan Northwest Forest Plan. Further, it will allow the Forest Service (FS) and Bureau of Land Management (BLM) to implement projects designed to provide near or long-term improvements to riparian zones, reduce the risk of severe wildfires with their accompanying environmental damage, and comply with the intent to maintain a viable infrastructure for dealing with the byproducts of forest management. This clarification will provide land managers with the flexibility they need to manage the forest resources while providing necessary protection measures to streamside and riparian zones, along with the wildlife dependent upon those habitats.

Response: *The action alternatives are intended to result in increased success implementing projects that follow Northwest Forest Plan principles. The rationale for the final decision will be published in the Record of Decision.*

Comment: NOAA Fisheries concurs that the proposed action will meet its intent by: (1) Clarifying the role of section C and D standards and guidelines in following the ACS; (2) reducing delay or stoppage of watershed restoration and vegetation management projects; and (3) promoting watershed recovery rates closer to those anticipated in the Northwest Forest Plan. We also believe that this action will not result in environmental impacts beyond those already discussed in the Northwest Forest Plan Final Supplemental Environmental Statement. Finally, the proposed action provides a formalized mechanism whereby action agency line officers will assess project-level ACS consistency (i.e. implementation of applicable standards and guidelines, and use of appropriate information in watershed analyses). Thus, we believe that the proposed action will result in more consistent and better-documented ACS consistency determinations, greater certainty that projects will not "retard or prevent attainment of ACS objectives," and thus greater certainty that ACS objectives will be attained over time.

Response: *The agencies agree hat the proposed amendment will have these effects. The rationale for the final decision will be published in a Record of Decision.*

Comment: I believe the ACS needs to be modified to allow for more activities that provide a long-term gain in our forests' health, even if there is some short-term adverse effect from the action. There has been a halt to several projects that were restoration oriented activities with an overall gain of better water quality and fish and wildlife habitat, but the current ACS did not allow these projects to go forward.

Response: *The Final SEIS alternatives were developed to increase agency success planning and implementing projects that follow Northwest Forest Plan principles. The rationale for the final decision will be published in a Record of Decision.*

Comment: I agree with and support the Proposed Action in your Draft SEIS. Clarification of Language in the 1994 Record of Decision for the Northwest Forest Plan; National Forests and Bureau of Land Management Districts Within the Range of the Northern Spotted Owl. This Proposed Action will allow for and must result in management actions that effectively implement the Aquatic Conservation Strategy (ACS) at appropriate scales. Short-term, localized disturbances should be allowed where necessary to obtain longer-term benefits to aquatic ecosystems in our Northern Spotted Owl National Forests.

Response: *The rationale for the final decision will be published in a Record of Decision. Alternative A specifically states that: "No management activities can be expected to maintain the existing condition at all scales and all times; disturbance from management activities must be considered in the context of the condition of the fifth-field watershed as a whole."*

Comment: Various timber organizations support the proposed action as described in this document. This is a common sense approach to allow activity that will achieve long-term goals of the Northwest Forest Plan. Short-term negative impacts on the Aquatic Conservation Strategy (ACS) should not be allowed to prevent active management of our federal forests. Stopping management is not in the best long-term interests and needs of our nation. This statement is supported on page 10 under 'purpose': "Northwest Forest Plan goals cannot be achieved without project implementation."

Various timber organizations support the efforts of the two agencies to clarify the Northwest Forest Plan that so long as individual timber sale projects comply with the Aquatic Conservation Strategy (ACS) standards and guidelines that no additional projects specific analysis regarding attainment of the ACS objectives are required. Adhering to the standards and guidelines on the project level should be the only requirement necessary for meeting the ACS objectives.

Response: *The rationale for the final decision will be published in a Record of Decision. The Draft SEIS did not include an alternative that strictly stated, "adhering to the standards and guidelines on the project level is the only requirement necessary for meeting the ACS objectives." Many standards and guidelines refer to attainment of ACS objectives; watershed analysis provides context needed to ensure compliance with these standards.*

Comment: The Mt. Ashland Association supports the Proposed Action, as it appears in the Draft Supplemental Environmental Impact Statement. ACS standards and guidelines, applied as they have been, have significantly affected processes relating to ski areas and have restricted ski run development, despite project designs which follow the ACS, with project planning and analysis which clearly contain evidence that projects would comply with relevant standards and guidelines in Sections C and D of Attachment A in the Northwest Forest Plan Record of Decision.

Response: *The rationale for the final decision will be published in a Record of Decision. All alternatives require that projects comply with standards and guidelines. Under the action alternatives, no further ACS consistency finding would be required.*

Comment: It is clear that confusion has occurred over how scale and time applies when considering whether a site-specific project meets the objectives of the Aquatic Conservation Strategy. The Purpose and Need in the ACS EIS will best be met, along with the ability to implement the Goals of the Northwest Forest Plan by selecting the Proposed Action.

The critical concept that the Proposed Action addresses is that the ACS was to be applied at a watershed or larger scale over a longer time period than that

normally addressed by a specific project. It is also important to note that the ACS supports management of the range of conditions normally found in a watershed. Adoption of the proposed modification to the Aquatic Conservation Strategy is important to give resource managers the tools necessary to fully implement the Northwest Forest Plan. Northern California Society of American Foresters believes that this language clarification is an appropriate way to return to the intent of the plan.

Response: *The rationale for the final decision will be published in a Record of Decision. Both action alternatives provide appropriate ways to return to the intent of the Northwest Forest Plan.*

Comments about the Site-Specific Application of the ACS

Comment: Re: Draft SEIS page 40 (Proposed Action): If managers are not required to apply the nine ACS objectives on a site-specific basis, it simply does not follow that "Land managers would be more likely to successfully plan and implement projects that follow the ACS."

Response: *Neither the Proposed Action nor Alternative A are intended to change overall direction in the Northwest Forest Plan. Land managers are expected to plan and implement projects that follow the ACS under all alternatives. As the Draft SEIS stated, the ACS objectives are to be attained at the watershed or broader scales. Following the ACS does not mean that all projects can "maintain existing condition" at all scales.*

Comment: The Draft SEIS assumes that only actions in Riparian Reserves will affect watershed functions, and ignores upslope effects. It does this by making the nine ACS objectives a simple wish list, removing enforceable standards.

Response: *ACS objectives are not now, nor have they ever been, considered standards see the Northwest Forest Plan FSEIS, Page F-166, which states: "The Aquatic Conservation Strategy objectives do not meet the definition of standards and guidelines...)." The ACS objectives fit the definition of a goal..."A concise statement that describes a desired condition to be achieved sometime in the future. It is normally expressed in broad, general terms and is timeless in that it has no specific date by which it is to be completed (36 CFR 219.3)." ACS objectives have the same status as other goals and objectives within Resource Management Plans. Appropriate scales for evaluating progress toward achievement of ACS objectives are the fifth-field watershed or broader scales.*

The ACS relies on four components to attain its objectives over time, Riparian Reserves, Key Watersheds, Watershed Analysis and Watershed Restoration. All of the alternatives retain these components. Riparian Reserves are portions of watersheds where riparian-

dependent resources receive primary emphasis and where special standards and guidelines apply. These standards and guidelines prohibit and regulate activities in Riparian Reserves that retard or prevent attainment of the Aquatic Conservation Strategy objectives (see the 1994 ROD B-12).

Comment: We are deeply concerned about removing the core ACS requirements that site-scale projects be consistent with ACS objectives. We offer one example about how weakening this component of the ACS would harm a premier river on the east end of the Olympic National Forest. The Olympic National Forest, in their draft Environmental Assessment of the Dosewallips River road washout (in a major flood event in 2001), shows both alternatives to reopen the road would have a long-term negative impact on the ACS objectives at the project level. However, they state that at the watershed and sub-watershed level, ACS objectives would be met (and although we debate whether or not this is true, we use it to illustrate our point). Both alternatives to rebuild a road, which should be decommissioned to protect the aquatic resources, would harm salmon; the current preferred alternative would harm Chinook, a listed species. Other watershed degradation, well spelled out in the EA, would also occur. What is currently illegal under the ACS would become legal (and harmful to the aquatic system) in this new proposal. This has become a highly controversial and contentious issue on this Forest; tribal and other resource agencies have expressed deep concern for road rebuilding alternatives. Currently, the preferred alternative D would violate 2 of the 9 ACS objectives.

Response: *This comment illustrates the very confusion created by the existing language. The reference to “impact on ACS objectives at the project level” implies that progress toward achievement of ACS objectives is appropriately evaluated at the project scale. This is not true. The perception that a project is illegal because it “violates objectives” is another example of a misapplication of the ACS. The language proposed for amendment has been interpreted to mean that the ACS objectives are a “hard set of criteria” that should be applied at the project scale. The Draft SEIS explained that these interpretations have contributed to reduced success in implementation of Resource Management Plans. NEPA analysis addresses site-specific issues.*

Comment: The DEIS states on page 20 that “All components of the Aquatic Conservation Strategy would be maintained, including Riparian Reserve standards and guidelines, watershed analysis, watershed restoration, and key watersheds.” Currently, if a given timber sale wouldn't maintain the existing condition or improve the watershed condition, it could not be implemented. The proposal would eliminate this requirement. Thus, it is not true to claim that the standards and guidelines would remain unchanged. Management would be fundamentally changed with respect to ACS.

- Response:** *The proposed amendment would not fundamentally change management with respect to the ACS. The Proposed Action was modified in Alternative A to retain the concept that, "Under the Aquatic Conservation Strategy, the agencies must maintain existing conditions or implement actions to restore conditions at the fifth-field watershed scale over the long term." This modification was made to reinforce that the objectives of the ACS are to maintain and restore watershed health at watershed and broader scales. As stated on page B-9 in all alternatives, including No Action, "This approach seeks to prevent further degradation and restore habitat over broad landscapes as opposed to individual projects or small watersheds."*
- Comment:** Lack of site-specific application of the ACS objectives will allow activity in the reserves which will degrade the site, such as road- building, log removal as well as logging (under the guise of "thinning"), and narrower no-cut boundaries. The level and location of road building cannot be assumed to remain the same; more roads will be built in Riparian Reserves to facilitate increased management "activity". (B-6, 7).
- Response:** *Road and timber management standards and guidelines within Riparian Reserves will not change under any alternative. The Draft SEIS explained that some site-level degradation is inherent in projects that implement Resource Management Plans. The level and location of road building would still be subject to management direction in Resource Management Plans and will not exceed levels envisioned under the Northwest Forest Plan as a result of the proposed amendment to the ACS.*
- Comment:** Compliance with Standards and Guidelines also cannot replace site-specific application of the ACS because the agencies cannot be trusted to apply them with the ACS in mind. For example, outright logging could easily proceed in Riparian Reserves under the guise of "commercial thinning", facilitated by road-building which would not have to be evaluated on a site-specific basis. In fact, the 11/7/2002 BLM Information Bulletin (Appendix A, p. 12) recommends "utilizing timber sales as a treatment tool." Revised Riparian Reserve acreage was the "single largest factor" for the 1998 reductions in the "Probable Sale Quantity" from 958 to 811 MMBF per year (15%); thus, these reserves contain a large volume of timber.
- Response:** *The proposed amendment would not eliminate the concept that the ACS must be "kept in mind" during project planning. Commercial thinning, utilizing timber sales as a treatment tool, riparian reserve restoration, and "outright logging" are all subject to site-specific analysis and evaluation. PSQ is based on volume available outside of reserves.*
- Comment:** Under the Proposed Action, species not threatened or endangered will not be as well protected, since non-application of the ACS objectives at the site level will

allow, for example, the removal of downed wood, adequate canopy cover, the "thinning" of big trees that provide habitat, and so forth.

Response: *No changes in level of species protection are directly associated with the proposed amendment. Each agency administers special status species programs to assure proper management of species not listed under the ESA. No Action could prevent projects that improve habitat conditions over the long-term but include short-term adverse effects. The Proposed Action and Alternative A clarify that ACS objectives are to be attained over the long-term at the fifth-field watershed and broader scales.*

In all alternatives, projects within Riparian Reserves must comply with applicable standards and guidelines. For instance, timber management standards and guidelines require that adequate down woody material be maintained (or restored) within the range of natural variability for a given watershed. This does not imply that a site-specific loss of down-woody material would necessarily violate any standard.

Comment: Many ACS Standards and Guidelines would make little sense after the proposed changes regarding the role of the ACS objectives. The proposal renders many Section C and D Standards and Guidelines unclear and ineffective when considered along with the proposed language regarding the role of the ACS objectives within them. For example, consider the following Section C Standard and Guideline: TM-1(a). Where catastrophic events such as fire, flooding, volcanic, wind or insect damage result in degraded riparian conditions, allow salvage and fuelwood cutting if required to attain Aquatic Conservation Strategy objectives. ROD, p. C-32. The Draft SEIS proposes that the reference to the ACS objectives here is intended to mean "that projects will use relevant information from applicable watershed analysis to provide context for project planning." Taken together with the fact that the Draft SEIS has decoupled watershed analysis from any reference to the ACS objectives (see III(A)(1) below), the Draft SEIS has succeeded at obfuscating what it might mean to ever comply with this Standard and Guideline. We think it was much more clear before the Draft SEIS attempted to "clarify."

Other examples include: TM-1(c). Apply silvicultural practices for Riparian Reserves to control stocking, reestablish and manage stands, and acquire desired vegetation characteristics needed to attain the Aquatic Conservation Strategy objectives. ROD, p. C-32. GM-1. Adjust grazing practices to eliminate impacts that retard or prevent attainment of Aquatic Conservation Strategy objectives. If adjusting practices is not effective, eliminate grazing. Notably, the majority of the "Roads Management" ACS standards and guidelines are prefaced with the statement "(m)eeet Aquatic Conservation Strategy objectives by." ROD, p. C-32. It is unclear what any of the Road Management standards and guidelines would mean under the Draft SEIS proposal. Under the Draft SEIS proposal all of these

Standards and Guidelines, and more, could be taken as advisory or optional. The proposed language leaves them with essentially no enforceability.

The ROD's Section C has no standards and guidelines that require assessing the effects of grazing on riparian areas, aquatic conditions, and/or ACS goals or ACS objectives. Although the standards and guidelines require modification of grazing to meet ACS objectives, the lack of a requirement to assess the effects of grazing on riparian and aquatic resources and ACS objectives within some identifiable timeframe renders this requirement entirely moot.

Response: *The Proposed Action is modified in the Final SEIS (Alternative A) to address this concern and make clear the analysis needed to demonstrate compliance with standards and guidelines that refer to ACS objectives. An example is illustrative:*

Riparian Reserve standard and guideline GM-1 reads: "Adjust grazing practices to eliminate impacts that retard or prevent attainment of Aquatic Conservation Strategy Objectives. If adjusting practices is not effective, eliminate grazing." To comply with this standard under the Preferred Alternative A, a decision-maker must "demonstrate how the agency used relevant information from the applicable WA to provide context for project planning." The decision-maker is also directed to, "complete an analysis that includes a description of the existing condition, a description of the range of natural variability of the important physical and biological components of a given fifth-field watershed, and how the project or management action maintains the existing condition or restores it toward that range of natural variability."

Given this direction, a decision-maker would have to consider the range of natural variability for riparian vegetation, bank stability, proportion of fine sediment in streambeds, water temperature, and width-to-depth ratios at the watershed scale. Information on the distribution of fish species and locations of particularly important habitat areas would also be relevant. This information, along with monitoring results, would provide a context for determining whether or not grazing practices should be adjusted or eliminated. If grazing impacts conditions at the watershed or larger scales so they were not operating within the range of natural variability, or if key indicators (i.e. width-to-depth ratio) could not be maintained at the watershed, the practice would be modified or eliminated.

Comment: The Draft SEIS claims that the assessment of site-specific impacts is not meaningful or feasible for purposes of evaluating consistency with the ACS objectives. This does not accurately reflect scientific understanding of environmental impacts assessment, and are not supported by language contained in the FEMAT Report, the FSEIS, and ROD as well as other agency documents and the scientific literature. For example, the following quotes from the NMFS and Forest Service make clear that it is necessary to assess compliance

with the ACS at the site-specific level: "Generally, adverse effects to listed salmonids and their habitat result from the aggregation of impacts which occur at the site-specific level. The accumulation of effects at the landscape level from numerous actions, if not fully arrested at the project scale, would reduce the likelihood of both survival and recovery of the species." (NMFS BO/CO for NW California, 1997, p. 15).

"Cumulative effects of forest practices may include changes in sediment, temperature, and hydrologic regimes, resulting in direct, indirect or eventual loss of key habitat components (e.g., clean gravel interstices, large woody debris (LWD), low temperature holding pools, and protected off-channel rearing areas) necessary for spawning and rearing of anadromous salmonids. These changes often are not expressed "immediately" at the project site, but instead may occur subsequent to triggering events (fire, floods, storms) or are' manifested off-site (downstream) of where the effects are initiated." (National Marine Fisheries Service, Position Paper on the Oregon Forest Practices Act, May 13, 1996).

Response: *This comment does not indicate why the citations provided, "make clear that it is necessary to assess compliance with Aquatic Conservation Strategy objectives at the site-scale." The citations discuss aggregated effects of multiple projects and sites. Cumulative effects analysis is a NEPA requirement regardless of ACS language. Endangered Species Act consultation also requires consideration of cumulative impacts.*

Comment: The Draft SEIS approach on this issue is again in direct conflict with the interpretation of the interagency REO, whose memo states in part: However, the S & Gs in Section C do not by themselves always guarantee that actions will be consistent with ACS objectives, in part due to the need to consider the results of watershed analysis. Draft SEIS, Appendix A, REO Proposed Interagency ACS Interpretations, p. 2.

Response: *The role of watershed analysis has been emphasized in the proposed amendment to provide context for site-specific application of standards and guidelines in both action alternatives, consistent with the intent of the Regional Ecosystem Office memorandum.*

Comment: Areas within riparian reserves plainly afford little protection if activities are allowed within the reserves, which damage riparian functions and/or degrade aquatic resources. Activities that remove vegetation or damage soils within the reserves are likely to degrade both riparian functions and aquatic resources in reliance on the standards and guidelines in Section C of the ROD allow activities within the riparian reserves that degrade their functions and aquatic resources. These standards and guidelines allow roads and landings to be constructed within the reserves even if they cause long-term damage to aquatic resources and

riparian functions and are completely inconsistent with attainment of the ACS objectives.

Response: *Standards and guidelines for Riparian Reserves are the same in all alternatives. These standards and guidelines are designed to “ensure that attainment of ACS objectives is not retarded or prevented.” Some disturbance may occur at a site-scale, but at the watershed scale, conditions will be maintained or restored. The standards and guidelines require land managers to meet ACS objectives by minimizing roads and landings within Riparian Reserves and other measures.*

Comment: The standards and guidelines in Chapter C of the ROD provide no limit to the amount of logging that could occur within non-key watersheds. Therefore, under the Proposed Action non-key watersheds could be entirely clearcut and roaded outside of riparian reserves, even though this would cause long-term and severe aquatic damage.

Response: *Matrix standards and guidelines provide for green tree retention within all harvest units, and native stand retention within all watersheds. Matrix standards and guidelines are the same in all alternatives. Land managers may elect to increase the size of Riparian Reserves if warranted by the condition of the watershed relative to attainment of ACS objectives. The process for evaluating Riparian Reserve widths remains unchanged in any alternative.*

Comments Related to the Scientific Basis for the ACS

Comment: The FEMAT Report is the best available science particularly on the specific issues being considered in the proposal, yet the proposal significantly diverges from FEMAT regarding several important ACS provisions. The Draft SEIS offers no science in support of these departures, and in fact offers no discussion of the scientific issues surrounding these departures... Importantly, the ACS EIS Team interviewed FEMAT scientists about the extent to which the changes that are now included in the Draft SEIS were consistent with their views of how the ACS was intended to function. On several key points the scientists' responses diverge from the actions taken in the proposal. For example, scientists indicated support for site-scale evaluation of projects as they relate to meeting the goals of the ACS, and noted that some site-scale projects could be inconsistent with meeting the ACS objectives at the watershed or larger scales. Additionally, scientists stated that site-scale compliance with Section C and D alone was not consistent with their view of how the ACS was designed to function.

Response: *The scientist interviews were part of the scoping effort but did not yield consistent results. Agency scientists consistently emphasize the role of watershed analysis in providing context for project planning.*

Comment: Under the Administrative Procedure Act, the agencies have a duty to identify the scientific justification for the need for the amendment in ACS management strategies.

Response: *Reeves provided the scientific justification in his Declaration to the Court (in Appendix A) and review of Scientific Concepts Report (in Appendix F). These references, along with the 1995 Federal Guide for Watershed Analysis, explain why the proper scales for evaluating progress toward attainment of ACS objectives is the fifth-field watershed and broader scale.*

Comment: The Notice of Intent states that the Draft SEIS for the ACS will "consider relevant new science since 1994." In our scoping comments, we asked the agencies to include in the Draft SEIS the scientific literature supporting the decision to alter the ACS. In response to this request, the USFS and BLM included Appendix F, "Review of Scientific Information" completed by Dr. Gordon Reeves. While we appreciate Dr. Reeves' review, we point out that he cites to no studies, papers, or reports to demonstrate that changing the language of the ACS will benefit watershed health and lead to aquatic restoration. If anything, the literature review merely reinforces the need for the basic tenets of the ACS. Indeed, as Dr. Reeves himself concludes there is "no evidence in the peer-reviewed literature where fish populations or habitat responded positively to or remained unchanged as a result of the impacts from intensive land management activities." Draft SEIS, F-3.

Because the direct result of the proposed changes to the ACS will be to increase intensive land management activities in sensitive areas, we fail to see how the agencies can support their conclusion that the proposed action will not adversely affect aquatic regimes and environments. It is clear that the basic tenets behind the ACS and the Objectives have changed little during the past seven years, and that the Draft SEIS did not address any new scientific findings made since 1994 that warrant changing the ACS. As a result, there is no scientifically based reason to weaken the existing requirements of the ACS, and the agencies' decision to proceed with amendments to the ACS is arbitrary and capricious. 5 U.S.C. [Section] 706(2)(A).

Response: *The agencies do not intend to weaken the ACS. The proposed amendment is intended to result in agency success planning and implementing projects that follow Northwest Forest Plan principles. The agencies are attempting to eliminate an expectation that may*

be impossible to meet and to clarify the documentation needed to demonstrate a project follows the ACS.

Comment: Dr. Reeves' Declaration supports the "both/and" rather than "Either/or" application of the nine ACS objectives to all spatial scales. Although the objectives are not intended to be applied "equally" at all spatial scales of concern, this does not mean that they should not be applied. As for meeting the objectives, Dr. Reeves states: The ACS is supposed to maintain aquatic ecosystems within the range of variability at the site and small subwatershed scale and the larger subwatershed and watershed scale to provide for acceptable populations of anadromous salmonids and other targeted organisms (p. 7)...The ACS aims to allow for the expression of these variable conditions at a site or small sub-watershed. However, it is not possible to evaluate consistency with the ACS at the sites scale by simply looking at the individual sites alone. (p. 8). The Proposed Action is contrary to Dr. Reeves' cautionary approach and language.

Response: *The proposed amendment clarifies that the proper scales to evaluate progress toward meeting ACS objectives is the watershed or broader scales. As explained in the ACS SEIS, the current interpretations have established an expectation that may be impossible to meet.*

Comment: Another point made in Dr. Reeves' declaration (see the last sentence of the paragraph at the top of page 5 - item No. 9) was: "They [the ACS objectives] are not intended to be a hard set of criteria that could or can be applied equally at all spatial scales of concern (i.e., site, watershed, province, and region)." To support the claim that the ACS objectives need not be site-specific, the declaration continued by saying there are wide variations of conditions at the site and watershed scale over time in the region of the Northwest Forest Plan (Item No. 10 on page 5). That is precisely the reason why a site-specific Aquatic Conservation Strategy (ACS) is necessary.

As Dr. Reeves points out in his "Review of Scientific Information" in the Draft SEIS: It is imperative that the spatial scale be specified when RNV and cumulative effects are discussed or evaluated. At small scales the RNV is very large. Consequently, it could be argued that there would be no cumulative effects resulting from management actions, except from the most extreme impacts. Draft SEIS, p. F-8. This is exactly the failing of the Proposed Action on this point - it never requires an RNV evaluation at a proper scale, and then seems to justify site-scale degradation with the logic that "not all sites were in good condition."

Without systematic, credible larger-scale analyses (landscape [river basin/province] and watershed) of RNV, we cannot know whether a particular

landscape is currently within or outside RNV, and thus certainly could not pretend that RNV is somehow guiding management at the site-scale. While we think the RNV concept holds promise, we also think it is important to note that the details of exactly how a RNV analysis would guide management have not been worked out certainly for aquatic systems. Also, while we agree that the fish habitat quality of different parts of the landscape in many cases varied through time, since the natural disturbance regime that helped created this mosaic is largely still in effect, we find it highly unlikely that watersheds are deficient in acres at the more recently disturbed end of the spectrum.

Although the draft SEIS is correct in stating that the range of natural variability is dependent on the scale at which it is assessed, it is incorrect about the conclusion that it is "problematic" and that it "is so broad that it is not a meaningful factor in assessing consistency with the ACS." On the contrary, as described in the FEMAT Report, FSEIS, ROD, Dr. Reeves Declaration, and scientific literature all scales provide a robust framework for identifying and analyzing the natural range of variability and using it for meaningful factor in assessing consistency with the ACS.

Response: *Appendix F contains Dr. Reeves' review of scientific information relevant to issues of scale and assessment of aquatic ecosystems. Dr. Reeves states that the failure to recognize the relationship between spatial scale and range of natural variability has contributed to the current confusion about how to implement the ACS. Dr. Reeves explains why the range of natural variability is not appropriately estimated at the site scale. The 1995 Federal Guide to Watershed Analysis describes how to assess range of natural variability at the watershed scale.*

Comment: Dr. Reeves' advocacy for management at ecosystem and landscape levels does not preclude adherence to the ACS objectives at site-specific levels, especially considering the degree of disturbance occurring on non-federal lands within the watershed. Although a certain amount of disturbance is necessary for resiliency, current ESA listings confirm that watershed "disturbance" is far beyond this point. As Dr. Reeves states: The less management actions resemble the natural disturbance regime under which an ecosystem evolved, the less resilient an ecosystem will be? Everest and Reeves (in review) reported that they found no evidence in the peer-reviewed literature where fish populations or habitat responded positively to or remained unchanged as a result of the impacts from intensive land management activities. Storms, drought, fire and other natural phenomenon provide adequate "disturbance" in riparian/aquatic areas such that management "activities" are not needed to provide this disturbance. Apart from nominal thinning to create CWD (removed during previous logging operations), and other truly restorative activities, the Riparian Reserves should be left alone so that a regime of natural variability can be re-established.

Response: *Dr. Reeves' review does not focus on whether or not projects should occur within Riparian Reserves. Riparian Reserve standards and guidelines would not change in any alternative.*

Comment: There is no good science, and none developed in the Draft SEIS, to show that eliminating evaluation and consistency to the ACS at the site-specific level, where appropriate and attainable, is valid.

Response: *The ACS would still be applied at all scales (for instance, Riparian Reserve standards and guidelines apply to specific sites), however the appropriate scale of evaluation of progress toward achievement of ACS objectives is the fifth-field or broader scale, over time.*

Comment: The Reeves declaration also says (starting with the third sentence in the paragraph that begins at the bottom of page 2.): "It[the ACS] was based on strategies developed previously in the 'Gang of Four,' PacFish, and SAT. The ACS was more comprehensive than these earlier strategies [previously mentioned in the declaration]. In the short term (i.e., 10-20 years), the ACS was designed to afford protection to watersheds that currently had good habitat and fish populations. The long-term goal (i.e., 100+ years) was to develop watersheds that function properly ecologically and supported acceptable populations of fish and other aquatic and riparian dependent organisms across the region covered by Northwest Forest Plan." Notice the periods of time mentioned in those sentences. They are the very time periods rejected by Judge Rothstein and the 9th Circuit Court - the very same erroneous time periods (particularly the too long 10-20 year period) the officials are now specifically establishing in the Standards and Guidelines. Remember: The circuit court specifically said that the one particular time frame of 10-20 years "ignores the life cycle and migration cycle of anadromous fish. In ten years, a badly degraded habitat will likely result in the total extinction of the subspecies...."

Response: *The Northwest Forest Plan Record of Decision Attachment A indicates it make take decades or centuries to achieve ACS objectives. This is one reason why NOAA Fisheries no longer uses consistency with ACS objectives as a surrogate for Endangered Species Act effects determinations.*

Comment: The Reeves statement *that* "not every reach of stream need be in good condition for the watershed to function properly" does not obviate the need for site-specific compliance with the ACS objectives. A large percentage of stream "reaches" within the Northwest Forest Plan area are adjacent to private or state-owned forest lands, which in Oregon at least are subject to very little regulation with respect to measures that would protect riparian/aquatic resources, i.e., no-cut buffer zones, logging practices, road densities, or seasonal restrictions. These

lands provide more than adequate "disturbance" to invoke any needed "resiliency" in fish species. Thus, stream reaches adjacent to federal forest lands do need to all be in good condition, to compensate for private/state lands and to provide refugia for riparian/aquatic species which cannot survive in less protected riparian environments.

Response: *The Northwest Forest Plan FSEIS focused solely on the role of federal lands in providing healthy watersheds. The condition of non-federal land is considered in watershed analysis.*

Comment: Notably, one flaw of the ACS that the Action Alternative could easily rectify but fails to do so relates to riparian protection of fishless and intermittent streams. The original Northwest Forest Plan assessment (USFS et al., 1993) failed to explain the basis for why less riparian protection is provided for fishless and intermittent streams. USFS et al. (1993) only suggests that smaller streams may not need wider vegetative protection because smaller LWD is more stable in small streams than large streams (USFS et al., 1993). However, LWD size is not a function of reserve width. This also utterly fails to address other riparian functions that are partially a factor of reserve width and their ramifications for headwater and fish-bearing streams. Further, the shift to smaller and less frequent LWD reduces sediment storage at the reach and channel network scale and can increase downstream sediment delivery while decreasing downstream LWD levels] or any explanation of how this is compatible with the protection and recovery of pervasively damaged watersheds and embedded aquatic resources, including fish-bearing streams. There is no sound premise that inadequate riparian protection of smaller headwater streams is consistent with the protection of aquatic resources at any scale, including in larger fish-bearing streams on the downstream end of the stream network. The failure to provide adequate protection of headwater streams will result in cumulative degradation of aquatic conditions in larger fish-bearing streams. Regional aquatic protection strategies based on science developed since the ROD have stressed the importance of providing as much, or more, riparian protection to smaller perennial and intermittent streams, in order to protect resources and habitats in perennial streams (e.g., Rhodes et al., 1994; CRITFC, 1995; Erman et al., 1996; CWW, 1996).

Areas within riparian reserves are far from fully functional in the area of the Northwest Forest Plan. They include numerous roads and road crossings, which are a significant source of anthropogenic sediment and elevated runoff to streams and habitat damage from these impacts may continue for decades (USFS et al., 1993). Riparian areas have also been significantly logged (USFS et al., 1993), with major portions of the reserve area in open plantation conditions. These impacts render the areas within the reserves less than completely

functional in supplying wood, regulating microclimate, and providing bank stability and other important functions.

Response: *The Forest Ecosystem Management Assessment Team (FEMAT) considered recruitment of large wood and other riparian functions when making recommendation for interim riparian reserve widths. Riparian Reserve widths may be widened if needed, based on watershed analysis and appropriate NEPA analysis.*

Relationship between the Proposed Amendment and Alternative 9 in the Northwest Forest Plan

Comment: Under the Proposed Action, Riparian Reserves will no longer “have the highest probability of maintaining long-term soil productivity because they will have the least amount of management-induced disturbance.”

Response: *Analysis in the Draft SEIS did not indicate that the Proposed Action would affect the referenced finding from the Northwest Forest Plan FSEIS (see page B-10 of the Draft SEIS). The proposed amendment would not result in greater soil disturbance than envisioned under Alternative 9 for the Northwest Forest Plan, because the same land allocations and standards and guidelines apply.*

Comment: The current proposal could result in activities within Riparian Reserves, and changes to post-watershed analysis Riparian Reserve boundaries, not anticipated by FEMAT and the Northwest Forest Plan. The agencies must analyze the impacts of these changes on northern spotted owls, whose viability ratings in the Northwest Forest Plan were dependent in part on these Riparian Reserves.

Response: *Northwest Forest Plan management direction related to Riparian Reserves would not change under the proposed amendment. Activities that would occur within Riparian Reserves under the Proposed Action are those anticipated by FEMAT and the Northwest Forest Plan. Appendix B addresses viability ratings related to northern spotted owl.*

Comment: The DEIS cannot expect the same outcomes as anticipated in the FSEIS, which were based on FEMAT, if it eliminates the FEMAT requirement for site-specific, as well as watershed level application of the ACS objectives. As quoted on B-6, from the Northwest Forest Plan FSEIS, “Decision makers will use the information developed during a watershed analysis to support decisions and to determine if a proposed project meets Aquatic Conservation Strategy objectives.” Since this essential component of the ACS has not occurred, the expected outcomes of the FSEIS cannot be expected to be the same.

Response: *The ACS SEIS discusses this issue at length, specifically in Appendix B. The Interdisciplinary Team determined that the proposed amendment would not invalidate expected effects from the Northwest Forest Plan.*

Comment: The Oregon and California Lands governs certain lands in the Northwest Forest Plan area that are managed by the Bureau of Land Management. 43 U.S.C. Section 1181(a) - (j). Although these lands are to be managed for permanent forest production, other stated purposes include "protecting watersheds, regulating streamflow, and contributing to the economic stability of local communities and industries." Id. Section 1181(a). The ROD explains how Riparian Reserves and other components of the ACS will meet the watershed protection and streamflow regulation purposes (ROD, p. 50), but this may no longer be true if the current proposal is adopted. The agencies need to analyze whether the current proposal is in compliance with the Oregon and California Lands Act.

Response: *The proposed amendment would not invalidate effects analysis in the 1994 FSEIS (see Appendix B for details). No further analysis needs related to O&C lands is needed.*

Comment: It is also important to recognize that one of the five factors that the FEMAT Aquatics Group considered in evaluating the effects of the alternatives on fish was "the amount of Riparian Reserves and type and level of management activity allowed within them." Northwest Forest Plan FSEIS, 3&4-190. Ratings for other species also relied in part on Riparian Reserves. Thus any increase in activities within the Riparian Reserves due to a weakening of the Standards and Guidelines could invalidate the FEMAT ratings for fish. The agencies need to evaluate whether this language change would impact the FEMAT ratings for fish.

Response: *The proposed amendment would not change the amount of Riparian Reserves or the type and level of management activity allowed within them. Appendix B discusses viability ratings for fish.*

Comment: [The Northwest Forest Plan FSEIS states]: "The overall intent of the Aquatic Conservation Strategy is to restore and maintain the ecological function and processes of watersheds and aquatic ecosystems and aquatic ecosystems within natural disturbance regimes. Proposed projects must meet Aquatic Conservation Strategy objectives and will be approved based on the restoration and maintenance criteria. Under the Aquatic Conservation Strategy, a project cannot have a negative effect, in the long-term, on riparian-dependent resources. The risk has been shifted under the Aquatic Conservation Strategy because each project must meet the maintenance and restoration criteria by maintaining or restoring the physical and biological processes required by riparian-dependent

resources within a watershed” (Northwest Forest Plan FSEIS, 3&4-68-9). The environmental consequences of an ACS with this requirement removed are different from what was evaluated in the Northwest Forest Plan FSEIS.

Response: *The citations in this comment were never intended to imply that projects will not have any adverse effects, nor that disturbance at any scale is equivalent to ACS non-compliance. The Preferred Alternative A retains more of the existing language to respond to public concerns.*

Comment: The proposal violates the NFMA regulation requirement to provide for ecosystem and species diversity at appropriate spatial and temporal scales. The scientists who designed the ACS determined that the site scale was one of the scales at which to apply the requirement for maintaining ecosystem and species diversity. This is evidenced by the requirement for project (site) scale activities to be consistent with the ACS objectives. The responsible officials for the Northwest Forest Plan also determined that this was appropriate when they approved the Northwest Forest Plan, yet this plan decision would remove the requirement that ecosystem and species diversity be considered at the site scale. This appears to violate 36 C.F.R. 219.20(b). C. The proposal likely fails to “maintain viable populations of existing . . . vertebrate species” as required by the Forest Service implementing regulations. Under the NFMA, each national forest must protect watershed conditions, soil productivity, and biological diversity. 16 U.S.C. Section 1604(g)(3)(E)(i) & (F)(i). The NFMA requires the Forest Service to adopt regulations to “provide for diversity of plant and animal communities,” and to “insure that timber will be harvested ... only where ... protection is provided for streams, streambanks, shorelines, lakes, wetlands, and other bodies of water ... where harvests are likely to seriously and adversely affect water conditions or fish habitat.” 16 U.S.C. Section 1604(g)(3)(B),(E)(iii).

Although the NFMA regulations apply only to lands administered by the US Forest Service, during the development of alternatives for the Northwest Forest Plan the viability regulation was used “as a criterion” for development of alternatives that would also apply to Bureau of Land Management lands. See ROD, p. 44. This was seen as serving “the important policy goal of protecting the long-term health and sustainability of all of the federal forests within the range of the owl and the species that inhabit them,” and to be in accordance with several laws including FLPMA. FLPMA has several of its own natural resource management standards and while we agree that they were met when the Bureau of Land Management lands were being managed to the NFMA viability standard, we question whether they will be met under the current proposal which may fall well short of meeting the viability standard for many species. The agencies need to analyze whether the current proposal is in compliance with the natural resource management standards in FLPMA.

Response: *National Forest Land and Resource Management Plans address National Forest Management Act (NFMA) requirements and BLM Resource Management Plans address Federal Land Policy Management Act. As discussed in the SEIS, the proposed amendment will not change the overall management direction in these plans.*

Comment: The Draft SEIS states that "the cumulative effects of proposed Northwest Forest Plan amendments are expected to be similar to effects analyzed in the 1994 Northwest Forest Plan FSEIS for Alternative 9. None of these efforts seek to change the predicted effects of the ACS." Draft SEIS, 34. This statement is flawed. Option 9 assessed the cumulative effects of logging according to the interpretation of the ACS that has been upheld by the courts, not the relaxed ACS now proposed by the USFS and BLM.

Response: *The proposed amendment would not relax the ACS. Appendix B provides rationale for the agency contention that the proposed amendment would not invalidate cumulative effects analysis in the Northwest Forest Plan.*

Comment: Several runs of salmonids have been listed since 1994. This is a situation that was not an anticipated effect of Option 9.

Response: *The Northwest Forest Plan FSEIS stated (page 3&4-202): "The [Aquatic Conservation] strategy ...would not ensure the population viability of many...fish stocks...it is not possible to determine whether [the plan] would preclude listings of fish species under the Endangered Species Act." Appendix B discusses assumptions and findings related to the viability of at-risk fish species.*

Comments about Effects of the Alternatives

Effects of the No Action Alternative

Comment: Your assertion on p. 40 that, "under No Action, some timber stand improvement and fuels reduction projects may be stopped or delayed by appeals and litigation due to misunderstanding of the ACS" is not true. GAO reported that less than one percent of true fuels reduction projects have been appealed or held up by litigation, and I believe the same is true for thinning projects in plantations.

Nobody, including myself, has ever opposed a restoration project in an EA or EIS.

Response: *There is widespread disagreement about the use of the term restoration as it relates to active land management. Opposition to timber stand improvement, fuels reduction and*

watershed restoration projects has occurred throughout the region, particularly if a project includes an element of commercial timber harvesting. Controversy also exists over where these projects should occur (some people argue that fuels reduction should only take place within the wildland-urban interface). Current ACS interpretations establish an expectation that is impossible for projects to meet. Given these interpretations, the agencies cannot demonstrate that projects meet the ACS.

Comment: The Pacific Northwest Ski Areas Association would like to take this opportunity to clarify a statement found on page 22 of the ACS EIS, namely "ACS standards and guidelines may restrict ski run development thereby reducing the potential for additional recreational opportunities." Without question, ACS standards and guidelines have restricted ski run development. The following examples illustrate how current ACS interpretation has impacted ski run development. The Crystal Mountain Master Development Plan Draft Environmental Impact Statement document (August 2000) contains many examples of how riparian reserves have restricted ski trail development. For specific examples of restrictions to ski run, ski lift, lodges, bridges, and parking facilities, please refer to Volume 4, Appendix A, Section 1.2. Modifications to the Proposed Action (pages 4 - 17) (see http://www.fs.fed.us/r6/mbs/crystal_eis/). Besides amendments to Crystal Mountain's Proposed Action, riparian reserves have had a "chilling effect" on the overall development potential of the Crystal Mountain study area, which extends beyond the noted modifications on pages 4 - 17).

Confusion resulting from misinterpretation of the ACS objectives has contributed to a three-year setback for the Mt. Ashland project, likely doubled the expense associated with the NEPA process, and has contributed to the complete redrafting of the Mt. Ashland Ski Area Expansion Environmental Impact Statement. In the late 1980s, operators of the Stevens Pass ski facility developed ski runs in the Mill Valley portion of the Stevens Pass special use permit (SUP) area. It is worth noting that trail development accomplished in the late 1980s would not have been allowed given the current, prevailing interpretation of the ACS. (in fact, much of Region 6's ski trail infrastructure would not have been possible with the prevailing ACS interpretation.)

Response: *The Final SEIS cites these ski industry perspectives. The proposed amendment clarifies the documentation needed to demonstrate that a project complies with standards and guidelines that refer to the ACS objectives. The proposed amendment is not expected to change design considerations for ski areas.*

Effects Related to Watershed Analysis

Comment: The proposed rule change in the Draft SEIS significantly changes the role of Watershed Analysis in the planning process. According to the Draft SEIS on page 18, the Watershed Analysis would provide "context for the design and site-specific assessment of the project, recognizing that Watershed Analysis is not a decision-making process in and of itself." This means that the Watershed Analysis, though required, would be used as a guide only and its core findings could be ignored by managerial discretion.

Decoupling Watershed Analysis from the ACS objectives weakens the ability to understand and prioritize Watershed Restoration. There will be no necessity to evaluate Watershed Analysis in determining the nature, scope and priority of watershed restoration both within a watershed and between watersheds.

Response: *The Federal Guide for Watershed Analysis (1995) describes the watershed analysis process and its use in project planning. Watershed analysis has never been a decision-making process subject to NEPA, and watershed analysis has always been expected to provide context for project planning. While the three alternatives (No Action, Proposed Action, and Alternative A) in the Final SEIS differ in the words used, the intent is the same for all.*

Comment: Detailed watershed analysis does not exist for any of the project watersheds I have commented on. Thus, no documentation would be required under the Proposed Action where there is little or no data.

Response: *Watershed analysis is required prior to implementation of most projects in Key Watersheds and Riparian Reserves. None of the alternatives change watershed analysis requirements.*

Comment: It is important to note that the level of watershed analysis envisioned by Dr. Reeves and other FEMAT authors has not taken place during the first 10 years of the Northwest Forest Plan, so cannot act as a check on activities within riparian reserves.

As noted in the Northwest Forest Plan (and by the Dwyer Court), watershed analysis is "unproven, unduly complicated, and not organized so as to provide effective decision points and cost-effective action priorities." Since the beginning of Northwest Forest Plan implementation, watershed analysis has been highly variable. [The requirement for] Watershed Analysis needs strengthening, not weakening.

Response: *The Final SEIS includes further discussion about the status of watershed analysis across the Northwest Forest Plan area. Watershed analysis provides context for project planning and implementation within and outside Riparian Reserves, as described in the Federal Guide for Watershed Analysis. None of the alternatives change the role, purpose or process for watershed analysis.*

Comment: Under the Proposed Action, the interim widths of riparian reserves established under the ROD may not ever be implemented because the standards and guidelines allow unrestricted revision of riparian reserve widths once WA is completed. Notably, these standards do not require that the ultimate riparian reserve width is consistent with the protection and restoration of streams and other aquatic resources at any scale. Under the Action Alternative, these standards do not require that the ultimate riparian reserve width is consistent with attainment of ACS objectives or the goals of the ACS. Under the Action Alternative, there is no requirement that reserve widths be consistent with recommendations or findings of the WA. Compounding these problems, there are no standards in Section C of Attachment A of the ROD requiring that WA be complete or scientifically sound, much less that it assess the effects of riparian reserve widths on aquatic conditions or ACS objectives. In short, under the Proposed Action, the sole reliance on the standards and guidelines in Section C of the ROD allows complete carte blanche for reduction in riparian reserve width as soon as WA is completed, regardless of the quality of the WA, or the consequences to aquatic resources and effects.

Response: *Adjustments to Riparian Reserve widths would continue to be subject to analysis under NEPA in all alternatives. Attachment A provides guidance related to Riparian Reserve widths. The proposed amendment would not change the ACS objectives or the Riparian Reserve standards and guidelines.*

Effects on Key Watersheds

Comment: The Draft SEIS eliminates the mechanism for ensuring that Key Watersheds are adequately protected by deleting the requirement that projects outside Riparian Reserves be consistent with ACS objectives. Without this consistency, the effectiveness of having Key Watersheds at all would be rendered null.

The Proposed Action's road construction provisions for Key Watersheds only protect inventoried roadless areas from damage by road construction. It does not protect uninventoried roadless areas from roads. It does not protect any roadless areas of any size, whether inventoried or not, from damage by logging.

The Proposed Action's prohibition on net increases in the amount of road does not assure that the negative aquatic effects of the road network do not increase.

Response: *Management direction related to Key Watersheds would not change under any alternative. Logging within Riparian Reserves must meet standards and guidelines and must have the purpose of maintaining or restoring aquatic and riparian ecosystems. No matrix standards and guidelines refer to attainment of ACS objectives.*

Effects on Rate of Watershed Recovery

Comment: I assume that many of the timber sales that may be released under the proposed action share common characteristics, i.e. old growth or native forests in matrix lands. Based on the nature of these sales, your assertion on p. 26 that the proposed action would lead to a greater rate of watershed recovery is at best arguable and most likely completely in error. This is pure conjecture and has never been proven.

Figure 3 on page 26 states that the "rate of watershed recovery" is slower than anticipated in the Northwest Forest Plan under the current ACS implementation, but with increased timber harvests in the proposed action, the rate of watershed recovery will improve. The FSEIS must back this up with some data, or remove it.

Response: *The Draft SEIS stated that success in restoration project implementation would hasten the rate of watershed recovery, because the Proposed Action would result in more restoration projects. The assertion about the rate of watershed recovery is tied to page 208 of the Northwest Forest Plan FSEIS. Page 208 stated that Key Watersheds have a faster rate of recovery than other Federal Land Watersheds, "due to the area of reserved lands, Riparian Reserves, and priority for restoration effort." The 1994 FSEIS did not estimate a rate of recovery or number of restoration projects.*

Discussion in the ACS Final SEIS about the rate of watershed recovery has been edited in response to these comments. The proposed amendment is intended to increase implementation of projects that follow Northwest Forest Plan principles. A timber sale may be the tool used to accomplish restoration work, or may provide funding or opportunity to achieve restoration that would not exist otherwise.

Comment: Due to the lack of requirements in the Proposed Action, watershed restoration is unlikely to significantly reduce existing damage or more than offset that caused by additional activities.

Response: *All alternatives include requirements (standards and guidelines) that apply to projects within the Northwest Forest Plan area. Management direction differs depending on land allocation. Watershed restoration is a component of the Aquatic Conservation Strategy. All alternatives include watershed restoration. None of the alternatives seek to approve "additional activities" beyond those envisioned in the Northwest Forest Plan.*

Effects on Soil and Water

• **Comment:** I am extremely worried that these changes will increase the detrimental effects on our drinking water causing a grave harm to all Oregonians.

Response: *None of the alternatives would increase detrimental effects on drinking water or hiking spots, beyond the level predicted within the Northwest Forest Plan FSEIS. Drinking water standards would not be affected by this project.*

Comment: According to the notice, Clarification of Language in the Record of Decision for the Northwest Forest Plan, approximately 83 sub-basins within the Northwest Forest Plan area contain streams that have been listed as impaired because of high water temperature and/or sediment loads (USDA 31). The notice mentions this increase could have been due to increase monitoring stations after 1994, but clearly avoids the implicating the long-term effects from logging from the 1960's-1992 could have played a factor in creating this impairment.

Response: *The focus of the discussion was changed conditions since 1994, so the pre-1994 conditions were not addressed. The Northwest Forest Plan FSEIS describes effects of pre-1992 logging on water temperature and sediment.*

Comment: Clean Water Act (CWA) violations may result if the Draft SEIS is implemented. FEMAT scientists have detailed the status of many streams in the Northwest Forest Plan, many of which they have listed as degraded and fail to meet the water quality standards of the CWA. The Draft SEIS also mentions, on page 31, that: "Approximately 83 sub-basins within the Northwest Forest Plan area contain streams that have been listed as impaired because of high water temperatures and/or sediment loads." In addition to this, Washington State Department of Ecology, in lieu of suing the Forest Service over CWA violations, signed a Memorandum of Understanding with the Region 6 Office of the Forest Service whereby DOE would work with each national forest in Washington State to make certain that CWA violations were diminished. Weakening the requirements under the ACS will make this a much more difficult task to accomplish.

The proposal to weaken the Northwest Forest Plan jeopardizes several other plans and decisions that are tiered to it. Subsequent to establishment of the Northwest Forest Plan, many plans, rules and ESA decisions have tiered to the plan. To the extent that they counted on ACS protections being in place on federal lands, any weakening of the ACS puts their legality in question. Water Quality Management Plans prepared, along with Total Maximum Daily Load reports, pursuant to the Clean Water Act in the Northwest Forest Plan area may no longer be adequate.

Weakening the ACS throws into question the adequacy of the Water Quality Management Plans that have been or are being completed for watersheds with non-point source water quality problems, such as the Nestucca and Grayback/Sucker watersheds. If the proposal results in less aquatic protection on federal lands, protection on state and private lands would have to be increased just to meet the same standards.

Weakening the ACS may put the agencies at-risk of violating the anti-degradation provision of the Clean Water Act because it may allow land management induced sediment and temperature loading in water quality limited streams.

Response: *These comments do not explain how the Proposed Action would violate the Clean Water Act, or result in further difficulty meeting water quality standards. The ACS is not weakened or changed by the Proposed Action or Alternative A.*

Comment: This proposal will allow clear cutting to occur on steep slopes and fragile soils adjacent to streams without considering how this logging will affect the long-term health of the entire watershed.

Response: *There is nothing within the Proposed Action that would “allow clear cutting to occur...adjacent to streams.” Any logging proposed by the agencies is subject to site-specific effects analysis. Timber management within Riparian Reserves would comply with Riparian Reserve standards and guidelines.*

Effects on Fish

Comment: Reeves et al. (1995) argued that Pacific salmon (*Oncorhynchus* spp.) had life-history attributes that allowed them to persist in a dynamic environment. The life “cycle” of a species is not the same as its life “history.” The point here is that even temporarily degrading the habitat of a fish species, which has a relatively short life cycle - of 3 to 4 years - compared to the “short-term” period referred to

in this SEIS (10-20 years) for "temporarily" but cumulatively degrading its habitat, is not compatible with the life cycle of a subspecies of fish.

The time scale that any project should be considered under should be long enough to allow very short-term negative impacts, a year or two at the most, after which conditions improve (such as is currently being used for restoration projects). But the Draft SEIS allows a 10 to 30 year time frame analysis. This is longer than the life span of the fish we should be protecting and places undue stress on depressed fish stocks.

Response: *Site-specific effects analysis is required under NEPA and the Endangered Species Act. Effects analysis includes an assessment of duration of effects. The Biological Assessment prepared for the amended Resource Management Plans states (see Appendix D): "Implementation of the Resource Management Plans, consistent with the standard and guidelines included in the Northwest Forest Plan, is expected to result in improved habitat conditions (over various time scales) for resident and anadromous fish species on lands within federal ownership and show progress towards attainment of the nine ACS objectives. This, in turn, is expected to provide for increased survival of various life stages of these fish and an increased probability of restoring and maintaining viable populations."*

Comment: The Draft SEIS does not analyze consequences of jeopardy findings under the Endangered Species Act. The document does not address whether, for example, NOAA Fisheries will still be allowed to equate ACS consistency with a no jeopardy finding. The Draft SEIS does state that: NOAA Fisheries and the U.S. Fish and Wildlife Service are developing new approaches to consultation that do not rely on the ACS as a surrogate for Endangered Species Act jeopardy analysis. The new approaches would be applied to programmatic consultation under both alternatives. Yet there is no actual analysis and therefore it is not appropriate for these agencies to assume that future, unidentified timber harvest or other management activities (such as building or rebuilding roads) will not violate ESA or the Northwest Forest Plan under the weakened ACS scenario. There is no discussion of the relationship to the ESA on the proposed changes to the ACS. It is premature to assume that timber harvest will be consistent with either the ESA or the Northwest Forest Plan simply because of the proposed changes in the Draft SEIS.

The Draft SEIS does not indicate whether the agencies propose to reinstate consultation on the Northwest Forest Plan pursuant to Section 7 of the Endangered Species Act; but we surmise from the lack of discussion with consulting agencies at this point, that the agencies do not intend to reinstate consultation. 16 U.S.C.[Section] 1536(a)(2)...[C]onsultation undertaken by NMFS after implementation of the Northwest Forest Plan specifically reserved the

jeopardy determination for site-specific project implementation. Therefore, there is no certainty that Option 9 does not jeopardize the continued existence of anadromous fish. These two factors constitute changed circumstances and indicate that the agencies must undertake consultation for changes to the ACS. The failure to do so violates the ESA.

Response: *Appendix D displays the Biological Assessment, which indicates that the amended Resource Management Plans within the Northwest Forest Plan area would not "jeopardize the continued existence of anadromous fish."*

Comment: If the Northwest Forest Plan becomes no longer "legal," the HCP's and all of the other aspects of ESA protection on state and private forestlands will be up in the air, creating more uncertainty for the state, timber companies and communities who depend on logging. For example, a decision by NOAA Fisheries on the coastal cutthroat trout to not list the species mentions as one of its reasons for the decision: "In addition, current regulations greatly reduce the risk that significant additional modification of habitat will occur in the foreseeable future" (67 Fed. Reg. 44934, 44949 (July 5, 2002)).

Response: *The Northwest Forest Plan would be "legal" under all alternatives. Nothing within the proposed amendment would increase the risk that "significant additional modification of habitat will occur in the foreseeable future." NOAA Fisheries has been consulted and wrote a formal comment letter supporting the proposed changes (included in total in this appendix). NOAA Fisheries has not indicated that this clarification of language would affect their decision not to list coastal cutthroat trout. The Biological Assessment in Appendix D concludes that the proposed amendment would not "result in any changes to the design of actions under the [Resource Management Plans]."*

Comment: I am writing as a very concerned scientist regarding the Bush Administration's and the Forest Service's attempts to lessen or eliminate the protections for salmon and salmon habitat in the Pacific Northwest. This plan is dangerous and will devastate the recovery of Pacific Northwest salmon. I would like to emphasize that the top predator in our oceans, the killer whale, and in particular the Southern Resident population (listed as Endangered by Canada, and Depleted in the U.S.) depends on healthy salmon runs for their survival. Approximately 90% + of their diet is salmon, and in particular Chinook. To eliminate the protections and not work stringently to restore the runs and the spawning grounds, as well as the eco-systems they support will lead to devastating results. This proposal is NOT sound science.

Ultimately, if these proposals are passed, humankind is only ensuring it's own extinction: it is important to recognize that the entire food chain begins and ends in our world's oceans. The killer whale, as the top predator is the ocean, is

therefore, the primary indicator species relative to the conditions of our world's oceans - not just the Pacific Northwest, but globally. What does it say when they are in danger and suffering from anthropogenic impacts of toxins in their systems - toxins they receive from the very fish they feed on. I urge the Forest Service not allow the desecration of the laws protecting salmon - not destroy the Endangered Species Act in favor of industrial / commercial interests. I would also point out that it endangers the futures of humankind as well as the precious children that you who work in this area might have.

Response: *The Biological Assessment in Appendix D discusses effects on fish species listed under the Endangered Species Act. Protection for fish would not be reduced under the proposed amendment. Laws affecting salmon will not change as a result of any alternative. The Biological Assessment states, "Implementation of the Resource Management Plans, consistent with the standards and guidelines included in the Northwest Forest Plan, is expected to result in improved habitat conditions (over various time scales) for resident and anadromous fish species on lands within federal ownership and show progress towards attainment of the nine ACS objectives. This, in turn, is expected to provide for increased survival of various life stages of these fish and an increased probability of restoring and maintaining viable populations."*

Comment: The Proposed Action allows riparian widths to be contracted even if WA finds that this is likely to completely extirpate native salmonids from a watershed.

Response: *None of the alternatives would allow riparian reserves to be managed in such a way as to completely extirpate native salmonids from a watershed. All require compliance with standards and guidelines and the Endangered Species Act.*

Effects on Amphibians

Comment: Draft SEIS proposals to alter the Riparian Reserve width and activities will likely impact the viability of amphibians. The needs of amphibians were also expected to be addressed by the "Survey and Manage" provisions of the Northwest Forest Plan. Agency efforts to remove these provisions, when combined with the ACS proposal and new research findings suggest that amphibian viability is not ensured.

Response: *The Draft SEIS did not include any proposals to alter Riparian Reserve width and activities. The Draft SEIS stated that the Proposed Action has no effects on species (including amphibians) beyond those disclosed in 1994. Appendix B discusses these findings in consideration of proposed language changes. Effects on amphibians from the Survey and Manage Proposed Action are disclosed in that Draft SEIS. The new research findings are not relevant to the proposed change in language for the ACS.*

Comment: We would like to bring to the agencies' attention two new studies that indicate that land use impacts on amphibians may be more detrimental than assumed in FEMAT. Both studies appear in the June 2003 issue of Conservation Biology. One study found that protection of riparian buffers alone was not nearly as highly correlated with high abundances of salamanders as was the percentage of disturbed area in the watershed. Wilson and Dorcas 2003. This may well have implications for the fate of salamanders under the proposal to equate ACS compliance with the Section C (Riparian Reserve) Standards and Guidelines.

Response: *This comment does not explain the relationship between these studies and the proposed amendment. The Northwest Forest Plan land allocations provide a high degree of protection of lands within and outside Riparian Reserves.*

Effects on Northern Spotted Owl

Comment: Given the substantially increased logging levels of mature and old growth forest that is bound to occur as a result of this, the EIS is required to fully analyze the adverse impacts on Northern Spotted Owls. This must include a detailed account of the current population trend range-wide and within sub-portions of the range, as well as the added/cumulative threats to the owl caused by barred owl incursions and the extent to which logging facilitates such incursions (i.e., by converting closed-canopy mature/old-growth forest to young forest or open-canopy forest in which barred owls, which are habitat generalists, can out-compete spotted owls.) No section exists in the DEIS to analyze adverse impacts to spotted owls, nor is there any information on current population trends (the last Meta-analysis was from 1998, and this has not been updated).

Response: *The proposed amendment would not increase logging levels within mature nor old growth forest over Alternative 9. As discussed in Appendix B, effects of the action alternatives are those already disclosed in the Northwest Forest Plan FSEIS.*

Comment: The Northern Spotted Owl, an indicator of many other ancient forest-dependent species, is in trouble, having lost approximately 6% of its population annually in Washington State in recent years. The proposed amendment would exacerbate if not seal the owl's decline.

Response: *The commenter does not state why the owl would decline under the Proposed Action. The Draft SEIS indicated that effects on the northern spotted owl under the Proposed Action are the same as those disclosed under Alternative 9 for the Northwest Forest Plan.*

Socio-Economic Effects

Comment: Your proposed actions will inevitably lead to increased long-term economic and ecological problems, as well as increased public controversy-resulting in less implementation of projects, not more.

Proposed modifications to the ACS will only bring about numerous lawsuits leading to a renewed divisive atmosphere and potentially, more lose-lose scenarios. The results will have long-term negative impacts on the entire economy of the Northwest.

Response: *Page 40 of the Draft SEIS stated that under the Proposed Action, “agencies are likely to continue to develop timber sale projects in an atmosphere of uncertainty, partly because groups opposed to timber sales are likely to continue to initiate litigation.” Given the content of comments received on the Draft SEIS, the agencies expect continued controversy regardless of the alternative selected. The agencies concur with the assertion that “increased long-term economic and ecological problems” could occur with “increased public controversy resulting in less implementation of projects.”*

Comment: The SDEIS states: “Uncertainty has indirect, unpredictable effects such as loss of experienced personnel or industry infrastructure [SEIS p. 39].” Can we get more information on these issues?

Response: *This comment led to corrections within the ACS Final SEIS. The Northwest Forest Plan FSEIS discussed the socio-economic effects of the various alternatives at length. The ACS Final SEIS states that socio-economic effects of Alternative 1 provide a surrogate for No Action effects and effects of Alternative 9 provide a surrogate for Proposed Action effects. These effects are briefly summarized in the ACS Final SEIS and are incorporated from the 1994 FSEIS by reference.*

Comment: The proposed changes to the [Northwest] Forest Plan will further degrade habitat for culturally sensitive species and historically precious tribal lands. These changes to the Forest Plan are more steps in the direction of eliminating native peoples that are in the minority of the U.S. population.

Response: *American Indian treaty rights and trust resources were discussed on pages 44-45 of the Draft SEIS. “ The Proposed Action has effects on tribal treaty rights and trust resources*

similar to Alternative 9 in the Northwest Forest Plan...American Indian treaty rights are trust resources would be protected under the proposed amendment."

Comment: Regarding to the socio-economic effects, the U.S. Forest Service and Bureau of Land Management needs to address the effects of silviculture on minority and low-income people who gather non-standard forest products, increased taxpayer hardships due to the increased costs of water filtration for downstream communities, and increased taxpayer hardships for stream restoration necessary for healthy fish runs.

Response: *This comment led to corrections within the ACS Final SEIS. The Northwest Forest Plan FSEIS discussed the socio-economic effects of the various alternatives at length. The ACS Final SEIS states that socio-economic effects of Alternative 1 (in the Northwest Forest Plan) provide a surrogate for No Action effects, and the socio-economic effects of Alternative 9 provide a surrogate for effects of the proposed amendment. These effects are briefly summarized in the ACS Final SEIS and are incorporated from the 1994 FSEIS by reference.*

Comment: The Draft SEIS failed to address the full economic impacts of the proposed action. If the proposed action is implemented, increased logging of larger trees would occur on public lands. This is at a time when the market value for logs is at an all-time low. Private timber companies are hesitant to log their own lands in these market conditions. Thus, it is more attractive for industry to log public forests at this time. The Draft SEIS should have considered the economic losses for federal timber receipts when public land timber sales increase during a weak market. The Draft SEIS gives unsubstantiated claims such as: "Continued reduced timber sale levels may negatively affect employment within the wood products industry." (Draft SEIS page 41.) This is not true. Employment in the wood products industry is affected much more by the demand for wood products, not the supply of wood products. The FSEIS must correct this error. The Draft SEIS also says incorrectly: "If timber sale receipts are reduced, government revenues and revenue sharing with states and counties are reduced." (SEIS page 41.) This is not true. Timber sale receipts and revenue sharing with states and counties are no longer tied together. The "Secure Rural Schools and Community Self-Determination Act of 2000" provides a stable revenue sharing process to states and counties that is not currently dependent on timber sale receipts. The FSEIS must correct this error of fact and subsequent error in economic effects analysis.

Response: *This comment led to corrections within the ACS Final SEIS. The Northwest Forest Plan FSEIS discussed the socio-economic effects of the various alternatives at length. The ACS Final SEIS states that socio-economic effects of Alternative 1 provide a surrogate for No Action effects and effects of Alternative 9 provide a surrogate for Proposed Action*

effects. These effects are briefly summarized in the ACS Final SEIS and are incorporated from the 1994 FSEIS by reference.

The Secure Rural Schools and Community Self-Determination Act of 2000 has affected revenue sharing with counties. Under the Act, counties within the Northwest Forest Plan area elected to receive a guaranteed level of payment, instead of payments that are a direct percentage of timber harvest receipts. Otherwise, socio-economic effects of Alternative 9 are still valid.

Comment: With developed winter recreation becoming economically more important in these communities, their continued health is a pressing issue. The proposed changes to the ACS, plus flexible interpretations of the standards and guidelines, will be central to the future viability of winter resorts.

Response: *The Final SEIS includes further discussion about effects of the alternatives on ski area management and other projects besides vegetation management and watershed restoration.*

Comments about Cumulative Effects

Comment: Under the Freedom of Information Act ("FOIA"), Earthjustice obtained, documents uncovering the timber industry's inside role in precipitating the proposed amendment to the ACS along with other initiatives to weaken the Northwest Forest Plan. The public is made privy to the proposed changes one by one without a meaningful opportunity to evaluate the sweeping programmatic changes as a whole.

The proposed amendment to the ACS may affect the viability of species that are targeted by other rollbacks. For example, the reversion to the old view that O&C lands must be managed primarily for timber production could eliminate riparian reserves and ACS protections on large blocks of low elevation salmon habitat in Oregon. The Draft SEIS contains no assessment of the cumulative and overlapping effects of all of these initiatives to weaken the Northwest Forest Plan and protections for endangered wildlife and the environment.

Response: *The Draft SEIS addressed cumulative effects with other Northwest Forest Plan amendments. Further discussion is included in the Final SEIS. The O&C lawsuit has been settled and the settlement is discussed in the Final SEIS.*

Comment: The Forest Service and BLM are proposing to amend the Survey and Manage mitigation measures of the Northwest Forest Plan at the same time as the agencies are proposing to alter the ACS. Draft SEIS, 40. The U.S. Fish and

Wildlife Service is also reviewing the status of the marbled murrelet and northern spotted owl, which may lead to changes in critical habitat designation, legal protection for the species, and the use and importance of the Late-Successional Reserves. In addition, the agencies are proposing several administrative rule changes related to hazardous fuels reduction, salvage logging, small scale timber harvest, national forest planning, and administrative notice, comment, and appeal procedures. Finally, large wildfires dramatically altered the landscape in 2000 and 2002, which has prompted the agencies to propose huge salvage logging projects, the effects of which were not addressed in FEMAT or the 1994 ROD and FEIS for the Northwest Forest Plan. None of these activities were disclosed or discussed in the Draft SEIS.

Response: *Further discussion has been added to the Final SEIS in response to this comment. The Final SEIS discusses each of these proposals and their relationship to the ACS EIS.*

Comment: The Draft SEIS eliminates methods that would ensure cumulative watershed effects will be addressed for every project.

Response: *None of the alternatives would change the NEPA or Endangered Species Act requirement for cumulative effects analysis.*

Comments Related to Monitoring

Comment: The agencies state that "the [Aquatic Riparian Effectiveness Monitoring Plan] will provide information at the province scale in a decade or more." Id. at 32. What is this plan and what are its elements? Has it been peer reviewed?

Response: *The academic community, tribal interests, private industry, and land management agencies reviewed the Aquatic Riparian Effectiveness Monitoring Plan (AREMP-Reeves et al. 2003 – see references in the Final SEIS). The plan is designed to assess progress toward achievement of ACS objectives across the entire Northwest Forest Plan area. Site information will be collected and aggregated at the fifth-field watershed scale. The distribution of watershed conditions across basins will be evaluated.*

Comment: AREMP data at the province scale in a decade or so is not soon enough to prevent the collapse of riparian/aquatic dependent species. The ability of AREMP to achieve consistency with ACS objectives is still uncertain, and should not be a replacement for project level consistency assessments.

The Draft SEIS assumes (page 32) that "effectiveness monitoring" will take the place of enforceable ACS standards and guidelines. But the Draft SEIS offers no examples of how this has ever been successful before.

Response: *AREMP information will help determine how well Aquatic Conservation Strategy objectives have been met at a broad scale. It does not replace of site-specific application of standards and guidelines. AREMP information will help the evaluate programs of work in Resource Management Plans relative to attainment of plan objectives. Meanwhile, watershed analysis provides context for project planning and implementation. Project-level analysis focuses on compliance with project-specific standards and guidelines, along with site-specific direct and indirect effects analysis. The Endangered Species Act also requires site-specific and cumulative effects analysis for projects that may affect listed species. All of these levels of analysis and documentation are appropriate and one is not intended to replace another. The Draft SEIS clarified that achievement of ACS objectives is meaningfully evaluated at the watershed and larger scales.*

Comments about the Data Quality Act

Comment: The proposal likely violates the Data Quality Act Section 515 of the Treasury and General Government Appropriations Act for fiscal year 2001, known as the Data Quality Act, directed the Office and Management and Budget (OMB) to issue government wide guidelines that "provide policy and procedural guidance to Federal agencies for ensuring and maximizing the quality, objectivity, utility, and integrity of information (including statistical information) disseminated by Federal agencies." Public Law 106-554; H.R. 5658 (codified at 44 U.S.C.A. Section 3506).

OMB published guidelines effective October 1, 2002. OMB Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility and Integrity of Information Disseminated by Federal Agencies. 66 Fed. Reg. 49, 718 (Sept. 28, 2001). Both the US Department of Agriculture and the US Department of Interior have issued their own implementing guidelines as directed by the OMB, which are applicable here along with the OMB guidelines because the decision makers are the Secretaries of Agriculture and Interior. Pursuant to the Data Quality Act guidelines of both Departments we are raising our requests for correction of information in the ACS Draft SEIS in these timely comments on the Draft SEIS. Because the requirements for the content of requests for correction are nearly identical between the Departments, we have written one combined request but address it to both Departments.

For each specific description of information that we seek to correct, we explain: a) why it is in noncompliance with the OMB, USDA and/or USDOJ Information Quality Guidelines; b) the effect of the error and how it affects us; and c) a recommendation for how to correct the information. Regarding all of the information discussed below, its portrayal by the agencies is "influential," as

defined by OMB, because it has a clear and substantial impact on the important public policies regarding salmon, watershed and old growth forest protection in the Pacific Northwest. Thus high standards for transparency apply to this information.

The Draft SEIS states in numerous places that the four components of the ACS are "retained" in the proposal (see e.g. Draft SEIS, Appendix B-2.). However, this is clearly not the case. The agencies' analytical conclusion that the four components of the ACS are "retained" is not capable of being substantially reproduced because, given the proposal's severe weakening of the four components, it is simply not possible that an independent analysis of the original supporting data (FEMAT, the Northwest Forest Plan and the proposal) would generate similar analytic results. The information is not of adequate quality, objectivity or utility, or integrity.

The Draft SEIS represents that it is simply clarifying language in the Record of Decision for the Northwest Forest Plan but is not altering the intent or effects of the ACS. The information that the agencies are disseminating regarding the effects of its proposal on the four components of the ACS is not substantively accurate, reliable, or unbiased and is not presented in an accurate, clear, complete and unbiased manner.

The information is not based on the best available science. The Draft SEIS has failed to base its statements that the four components are retained on any of the FEMAT scientist interview responses, or an accurate evaluation of FEMAT, the Northwest Forest Plan, or the REO memorandum. Any of these sources illuminate the fact that while the proposal may retain the names of the components, their functions in protecting and restoring aquatic habitat is severely weakened.

One effect of the misinformation has been to require us to do our own analysis of the impacts of the proposal and how they differ from that of the Northwest Forest Plan because we cannot rely on the Draft SEIS representations on this issue. We are concerned that people reading the NEPA document at face value will be misled into incorrectly thinking the impacts of implementing the proposal would be minimal. Additionally, if the environmentally damaging Action Alternative is chosen based on this non-complying information, another effect will be the loss of critical forest protections.

If the agencies pursue this proposal, the agencies should correct the information by acknowledging the impacts of the proposal on the four components of the ACS and fully analyzing and disclosing the likely impacts of this weakening.

Response: *This comment provides no specific information on which to evaluate compliance with the Data Quality Act. The proposed amendment specifically retains the four components of the ACS. No changes to the allocation of lands to Riparian Reserves or Key Watersheds or to the management directions for activities within these land allocations are proposed. No changes to the management direction for performance of Watershed Analysis or Watershed Restoration are proposed.*

The comment does not explain how the proposed amendment would weaken the ACS from its original intent. Clarifying the ACS so that projects can proceed is not “weakening” the ACS. The agencies have sought and received assistance from the original authors of the ACS to assure that this clarification reflects the original intent for ACS. The comment provides no data, or source for data of better quality than that used in the Draft SEIS. The agencies are using the best available science and their own experts in this analysis. All of the known scientific evidence that bears on the consequences of the alternatives is included in the SEIS.

Other Comments

Comment: The Draft SEIS claims that the current application of ACS has limited timber sales to 35% of the Northwest Forest Plan's quota and that is evidence that ACS is not working as intended. However, if the level of timber sales is not meeting Northwest Forest Plan goals, then sales quotas need to be re-examined and not the Aquatic Conservation Strategy. Indeed, a reduction in timber sales means that the ACS is working to meet the conservation goals of the Northwest Forest Plan.

Response: *Several public comments included in this Appendix contend that timber harvesting and road work are, by definition, incompatible with the ACS. However, the Northwest Forest Plan Record of Decision does not support this contention.*

Comment: The courts (including the 9th circuit in 1996) stated that full implementation of all components of the plan are necessary to remain within the legal requirements of NFMA.

Response: *To comply with NFMA, the Forest Service must indeed follow their Forest Plans. Agencies may also amend their plans as needed.*

Comment: The ACS amendments are pervasive and far reaching. They affect “all Resource Management Plans for Forest Service and BLM administrative units within the Northwest Forest Plan area.” Therefore, such amendments are clearly significant under NEPA.

- Response:** *Under NEPA, the agencies are under no obligation to document a finding of no significant impact for the SEIS. However, as stated on page 10 of the Draft SEIS, documenting the analysis within an EIS was not intended to imply that there are significant environmental effects as a result of the amendment.*
- Comment:** The SDEIS states: "The Proposed Action does not make any irretrievable or irreversible commitments of resources." [SEIS p. 44]. This statement assumes that we know how to regrow old-growth and restore streams, which are highly questionable assumptions.
- Response:** *The Final SEIS now states that, "Neither the Proposed Action nor Alternative A make any irretrievable or irreversible commitments of resources beyond those predicted for Alternative 9 under the Northwest Forest Plan." Irretrievable or irreversible commitments of resources were discussed in the Northwest Forest Plan FSEIS on page 3&4-321: "Implementation of projects in accordance with the preferred alternative [Alternative 9] would result in some, if not all, loss of utility of habitat for late-successional and old-growth related species for the period of time needed for that habitat to grow again-a commitment of over a century. Some old-growth forest stands would be harvested under the preferred alternative. Although certain economic and social values will be saved at the point of harvest, these areas will then not contain as full an array of ecological and human values associated with old-growth forests as stands not harvested. Depending on the physiographic province and site, it would be several centuries or more before the full array of those characteristics return."*
- Comment:** The requirements for site-specific analysis are not dispensed with by the proposed amendment to the ROD. Section E (Implementation) of the 1994 ROD states (page E-1) "...resource management attributes will be subject to site specific environmental analysis...before they are conducted." Also, the 1994 ROD (page 13, paragraph 1), "...timber sales...must be consistent with these amended planning documents...[referring to the ROD with added standards and guidelines]. In addition, timber sales must undergo appropriate site specific analysis..." The ROD contains numerous other references to standards that must be observed at the site or project level - for example, (i) green tree retention, (ii) retention of late successional fragments (in the unmapped late successional reserves) and (iii) the survey and manage protocols. These are specific requirements that must be observed in project implementation. There is nothing in these sections of the Northwest Forest Plan to indicate that analyses required by these standards are to be construed as merely "providing context."
- Response:** *Site-specific analysis is required under a variety of laws, regulations and policies applicable to federal land management.*

- Comment:** A watershed is the sum of its parts, and as the court cases state, using generalized data over a large area (20-200 square miles) will mask the site-specific impact of one timber sale.
- Response:** *Site-specific impact analysis is required by NEPA. Data collection and effects analysis is expressed at a variety of scales, depending on the element being studied. For instance, many standards and guidelines in resource management plans are applied at the stand scale, so data and effects analysis is appropriate at that scale to assure that projects comply with the plans. Cumulative effects analysis generally considers watershed level effects.*
- Comment:** The authors of the REO letter of November 1999 are "senior agency managers", "inter-agency managers", and "senior technical staff." They do not have the professional background or legal status (they are in the executive branch, not judiciary) to re-interpret the ROD to their liking. The REO letter interprets the ROD as the agencies would like it to be interpreted, rather than outlining its true meaning as supported by FEMAT and the court cases. Thus, the fact that this ROD interpretation has "full and unanimous agreement among the agencies" is no reason for confidence in the veracity of the comments.
- Response:** *The Northwest Forest Plan provided for interpretation of its standards and guidelines via the Regional Ecosystem Office (ROD page E-16). The Regional Ecosystem Office memorandum was put in Appendix A to demonstrate the attempts the agencies have made in interpreting the ACS. This letter was never forwarded to Forest Service or BLM line officers as formal direction.*
- Comment:** The proposed action could support two mutually reinforcing categories of projects [within ski areas]: (1) restoration work, such as culvert upgrades; culvert elimination/stream channel redesign; improved road drainage; etc. and (2) ski trail improvement that might create some initial impact, but would be more than offset by restoration work (category 2) within the larger watershed, creating a net gain for achieving ACS objectives. With careful project design ski resorts may see opportunities for facility improvement. However, for these opportunities to be realized, the standards and guidelines under RM-1 in the ROD, page C-34, must be interpreted broadly, where the creation of recreation facilities within riparian reserves (for example, tree removal for ski trails) are not considered "timber harvest", but rather remain under the RM-1 category. The RM-1 category, because it refers only to not precluding the attainment of ACS objectives on a broad scale, allows for more flexible interpretation. If, however, recreation projects such as ski trail development are considered "timber harvests" and subsumed under timber management standards and guidelines (TM-1), then the benefits accruing the proposed action would be considerably weakened.

Response: *Land managers determine the applicability of various standards and guidelines depending on the nature of a particular project. Resource Management Plans include a variety of standards and guidelines that apply to ski areas.*

Comment: The IBLA decision [published in Appendix A] inadvertently shows why the agencies must continue to be required to apply and meet the ACS objectives on a site-specific level: (1) the "watershed analysis", accepted by the court as adequate, "consists mostly of the opinion of BLM's hydrological expert" (p. 72), and (2) the proposed action in the "reserves" was quite considerable, including revising Riparian Reserve boundaries and removing cut timber, both of which the judge finds a rational basis for (p. 74). Thus, "watershed analysis" and the "Standards and Guidelines" alone do not adequately protect riparian/aquatic species, given these liberal interpretations.

Response: *The comment does not provide evidence that the proposed amendment would affect the outcome of the IBLA decision. The IBLA decision was included in the Draft SEIS to provide evidence that different people interpret the language of the ACS differently, thus creating the current confusion. The IBLA decision was not included in the Final SEIS Appendix A.*

Comment: [Re:] p. 26 (Alternative Comparison Table) a) What "ambiguous language" is the table referring to? How will amending the language clear up the "ambiguity"? b) "Vegetation management" and "Timber Sale Volume Offered" should be in the same box as under the first category ; the text only discusses timber sale volume. c) Why doesn't this chart include the impact on ESA listed/ proposed for listed species?

Response: *The alternative comparison table has been edited in the Final SEIS. A Biological Assessment (BA) had not been prepared in time to publish in the Draft SEIS. The BA is included in Final SEIS Appendix D.*

Comment: According to the ROD (page 19): "PSQ levels are presented as an effect, not a goal, of the Standards and Guidelines. Therefore, harvest within areas specified for habitat protection will be greatly curtailed." Yet from the beginning of Northwest Forest Plan implementation and increasing during the current Administration, biodiversity is considered a constraint. If it were not, we wouldn't be having PSQ numbers thrown around as if they were hard commitments. The Draft SEIS prioritizes an increase in PSQ and the potential for future change with respect to future levels of sales offerings within Key Watersheds over ecosystem health.

Response: *The Proposed Action does not affect the purpose or character of the PSQ estimates. The Draft SEIS did use the PSQ as an indicator of difficulties agencies have had in planning and implementing projects.*

Comment: The 1994 FEIS page 3&4-69 states: Proposed projects must meet Aquatic Conservation Strategy objectives and will be approved based on the restoration and maintenance criteria. The existing conditions and physical and biological processes operating within a watershed will be the baseline to consider project proposals. Province, river basin, and individual watershed analyses will provide the baseline information and frame the context of the natural disturbance regime. Decision makers will use the information developed during a watershed analysis to support decisions and to determine if a proposed project meets Aquatic Conservation Strategy objectives. This is a new approach; in the past, proposed projects were considered from the context of what effects (positive and negative) a proposed project would have on the conditions and functions and processes of a watershed. Frequently, mitigation was used to attempt to neutralize the negative effects on riparian-dependent resources. . . The risk has been shifted under the Aquatic Conservation Strategy because each project must meet the maintenance and restoration criteria by maintaining or restoring the physical and biological processes required by riparian-dependent resources within a watershed." The proposed "new" ACS actually looks a lot like the "old" pre-Northwest Forest Plan approach where mitigation (e.g., make up excuses for logging such as pointing out that trees are growing elsewhere in the watershed) are used to justify timber sales and road building that clearly degrades watersheds.

Response: *The Draft SEIS explained the difficulties the agencies have encountered because of language implying that projects must meet ACS objectives. A single project should not be expected to maintain and restore watershed conditions. The current interpretation that existing conditions must be maintained at every scale is unreasonable. There is no evidence that the authors of the 1994 FSEIS intended this interpretation. The referenced statement in the 1994 FSEIS is not related to any findings of impact (see Appendix B). Under all alternatives, watershed analysis would still be expected to provide context and baseline information.*

Comment: The 1994 ROD is not a model of clarity. But it is doubtful that the amended ROD achieves more clarity of language than the original ROD or that it will remove the uncertainty that presently exists in connection with implementation of the ACS. There is considerable doubt as to the meaning of expressions such as "fully attain" in "fully attain ACS objectives" and "context" in "provide context for the design...of the project." In practice, it seems easier to determine whether or not a proposed project is "consistent with the ACS" than to decide if the watershed analysis "provides context for the design...of the project." Even though not stated with great precision, the 1994 ROD provides criteria for making a finding that a project meets ACS objectives. The procedure is outlined on page B-10, paragraph 2, of the 1994 ROD (which is to be deleted in Alternative 2). The replacement text does not provide any means of deciding how to proceed in cases where the watershed analysis, the stipulations of Sections C and D or other provisions of the Northwest Forest Plan reveal that a proposed project is likely to produce adverse effects for some aquatic or riparian ecosystem components.

Response: The Proposed Action was modified in Preferred Alternative A to respond to this comment. More of the existing language is retained in Alternative A.

Comment: Contrary to the assertions of the Bush administration and the timber industry, the Aquatic Conservation Strategy is not "broken." In fact, it is working as intended to stop and modify projects that harm aquatic habitat, and to facilitate implementation of projects that achieve important aquatic restoration needs. If the ACS is amended as proposed these important habitats could be degraded or destroyed. Consider the following examples of places saved by the Aquatic Conservation Strategy. Wind River, Mt. Adams Ranger District, Gifford Pinchot National Forest. The Wind River is the last major free-flowing Cascade Mountain river system in southern Washington. Four massive roadless areas, including Indian Heaven and Trapper Creek Wilderness, feed its headwaters, and it is home to gray wolves, goshawks, northern spotted owls and other wildlife. With excellent spawning and rearing habitat, the Wind River is a stronghold for threatened steelhead trout and Chinook salmon.

In 1998, the Forest Service approved the Limbo timber sale to cut 13 million board feet from over 400 acres of mature and old-growth forest in the Wind River basin. In addition to harming several spotted owl sites, the roadless area logging in the Limbo timber sale was expected to inflict considerable harm on steelhead trout by increasing sediment and instream flows. Washington Department of Fish and Wildlife consider the Wind River steelhead to be the most imperiled run in the lower Columbia River. A federal judge blocked the sale after ruling that the sale did not conform to the Aquatic Conservation Strategy.

In 1998, the Willamette National Forest proposed the SIMCO timber sales that involves clearcutting almost 500 acres of the remaining mature and old growth forest in steep landslide-prone watersheds.. The Forest Service withdrew this sale after conservation groups challenged the sale on the grounds that Aquatic Conservation Strategy objectives were not being met.

The Deer Mom timber sale was offered for sale in the fall of 1998. It called for 855 acres for logging through group selection and commercial thin in the Deer Creek Watershed. Some of the logging was immediately adjacent to creeks, which were supposed to be protected as "riparian reserves." 364 acres of suitable spotted owl habitat would have been removed by this timber sale. The sale was stopped on the grounds that Aquatic Conservation Strategy objectives were not being met.

The Lower Hayfork Creek Timber sale was proposed by the Shasta-Trinity National Forest in 1998. This sale proposed logging 2.1 MMBF from 1,417 acres in Lower Hayfork Creek watershed within highly unstable soils, 445 acres of critical northern spotted owl habitat, and within riparian reserves. Logging prescriptions included Green Tree Retention, thinning, and sanitation salvage by helicopter, cable, and tractor logging systems. Approximately 7.5 miles of road reconstruction would also take place. Citizens For Better Forestry, Forest Service Employees For Environmental Ethics, and Kenneth Lanspa (a Forest Service soils scientist) commented on and appealed the sale. The appeal decision issued on January 4, 1999 affirmed the decision to implement the proposed alternative. This sale was stopped by the PCFFA decision due to Aquatic Conservation Strategy (ACS) issues.

Skinny Doe timber sale, proposed in 1998, is a thinning project on 428 acres of thick tree farms, and would produce 4.61 mmbf of timber in the South Fork Coquille River. The stands that are to be thinned were clearcut in the 1930's and 1940's with steam donkeys on railroads. The sale was stopped by litigation because of the impact to fish species, largely due to the fact that over 5.4 miles of road construction and reconstruction would take place. The courts enjoined the sale on the grounds that the sedimentation created by the road construction would harm salmon in the Coquille River. The Forest Service agreed not to build any new road and instead use only existing railroad beds and jeep roads. The sale was released from injunction in 2002 and is to be auctioned this fall.

Response: *The agencies do not agree with this characterization of the projects mentioned. These projects were intended to achieve desired conditions in Resource Management Plans. The action alternatives are not intended to change the way projects are designed, rather to clarify project documentation requirements.*

Comment: “In summary, the timber supply from federal lands is one drought, one insect and disease outbreak, one severe fire season, one election, one budget, one successful appeal, one loss in court, one listing of a threatened or endangered species, one new piece of pertinent scientific information, one change in technology, one shift in public opinion, one new law, one loss of a currently available technological tool, one change in market, one shift in interest rates, et al, away from "stability" at all times. And, these changes do not come one at a time, they come in bunches like bananas [sic] and the bunches are always changing. So, stability in timber supply from the public lands is simply a myth, a dream that was never founded in reality. It is time to stop pretending.” Thomas, The Instability of Stability, <http://www.pnrec.org/pnrec97/thomas2.htm>. If the former Chief of the Forest Service and main architect of the Northwest Forest Plan holds this view, the agencies are obligated to clearly explain and justify its conflicting view.

Response: *The Draft SEIS concurs with the notion that there are multiple factors affecting the agencies ability to meet PSQ.*

Comment: This Draft SEIS fails to disclose the negotiations with and influence of the timber industry to the Bush Administration and to the agencies and may also have violated the Federal Advisory Committee Act. Earthjustice Legal Defense Fund, in a Freedom of Information Act (FOIA) request filed on behalf of three environmental organizations, received and released in 2003 several documents that clearly showed the timber industry's influence on the Bush Administration. The industry had five top demands, including weakening of the ACS. The role this played must be discussed in the Purpose and Need statement, as well as in the substance of the action alternative. In addition, the influence of the industry and direct meetings between the industry and the Bush Administration may be a clear violation of FACA. This must be disclosed.

Response: *The Draft SEIS described the Purpose and Need. It does not include “meeting industry demands.”*

Comment: The Forest Service and BLM indicate that an alternative eliminated from further study was to “analyze additional proposals under a single EIS.” ACS Draft SEIS, 22. The agencies misunderstand the request of the GPTF and others that raised this issue in scoping. The requirement to analyze contemporaneous (and past and future) agency actions that will have synergistic effects on the planning area is an obligation to address the cumulative impacts of the agencies action, not the requirement to assess a reasonable range of alternatives. Compare 40 C.F.R. [Section] 1508.7 with 40 C.F.R. [Section] 1502.14.

Response: *This comment resulted in changes in the Final SEIS. The suggestion to consider concurrent agency proposals in a single EIS is no longer treated as an alternative considered.*

Full Text Of Letters As Required by CEQ Regulations

NEPA requires that a Final EIS include the full text of comment letters from federal, state and local agencies, as well as elected officials. Three formal letters were received from 1) NOAA Fisheries; 2) the Environmental Protection Agency; and 3) the Association of Oregon Counties and the Association of O&C Counties.



**UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration**

NATIONAL MARINE FISHERIES SERVICE
Northwest Region
7600 Sand Point Way N.E., Bldg. 1
Seattle, WA 98115

A-65

June 12, 2003

To: **Nicollette D. McClurkin, NOAA Strategic Planning**

From: **D. Robert D. Lohn, NMFS, Northwest Region** *Michael R. Courne (for)*

Subject: **NOAA Fisheries' Comments on the Draft Supplemental Environmental Impact Statement for Clarification of Language in the 1994 Record of Decision for the Northwest Forest Plan; National Forests and Bureau of Land Management Districts Within the Range of the Northern Spotted Owl (DEIS 0304-03)**

Dear Sir:

NOAA's National Marine Fisheries Service (NOAA Fisheries) has reviewed the subject Draft Supplemental Environmental Impact Statement (DSEIS) and provides the following comments for incorporation in the Department of Commerce comments on the subject DSEIS.

Background

In 1993, the Northwest Forest Plan (NWFP) was initiated to end the impasse over management of Federal forest lands in the Pacific Northwest within the range of the northern spotted owl. The NWFP Record of Decision (ROD), signed in 1994, provides a framework and system of Standards and Guidelines, using an ecosystem approach to address resource management. The NWFP amended 29 land management plans within the range of the northern spotted owl. Among the objectives of the NWFP are to: "... Protect long-term health of forests, wildlife, and waterways...." and to "... Produce a predictable and sustainable level of timber sales and non-timber resources that will not degrade or destroy the environment...." Integral in meeting NWFP objectives is the Aquatic Conservation Strategy (ACS), which is composed of four components (Riparian Reserves, Key Watersheds, Watershed Analysis, and Watershed Restoration), and a set of standards and guidelines to be implemented at the project level, and which "... prohibit and regulate activities in Riparian Reserves...." (ROD, Page B-12). Associated with the ACS is a set of 9 objectives (ROD, Page B-11), which serve as broad landscape management objectives, directed at the watershed scale, to be achieved over time by maintaining and restoring natural processes through implementation of the ACS components and application of the Standards and Guidelines.

Under current planning regulations, action agency line officers are required to make findings that individual actions going forward under the NWFP are consistent with the ACS. The proposed

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action discussed in this DSEIS would make limited changes to the NWFP to clarify how the agencies should design projects to ensure consistency with the ACS, and thereby attainment of the ACS objectives.

Purpose and need: The DSEIS states that:

“Projects needed to achieve Northwest Forest Plan goals have been delayed or stopped due to misapplication of certain passages in the Aquatic Conservation Strategy. The ACS has been interpreted to mean that every project must achieve all ACS objectives at all spatial and temporal scales. This interpretation suggests land managers must demonstrate that a project will maintain existing conditions (or lead to improved conditions) at every spatial and temporal scale. Any project that may result in site-level disturbance to aquatic or riparian habitat, no matter how localized or short-term, could be precluded under this interpretation. This interpretation establishes a nearly impossible expectation for demonstrating that projects follow the ACS.”

The DSEIS concludes that this misinterpretation, particularly with respect to recent litigation (PCFFA v NMFS) has foreclosed opportunities for meeting NWFP goals, most notably with regard to watershed restoration and vegetation management projects.

Proposed action: The DSEIS proposes to amend the NWFP Record of Decision by modifying language in Attachment A, Appendix B, Pages B-9 and B-10 to clarify that:

- The proper scales for Federal land managers to evaluate progress toward achievement of the ACS objectives are the watershed and broader scales.
- No single project should be expected to achieve all ACS objectives.
- Decision makers must continue to design projects to follow the ACS. Project records must contain evidence that projects comply with relevant standards and guidelines in sections C and D of Attachment A in the Northwest Forest Plan Record of Decision. Project records must also demonstrate how the decision maker used relevant information from applicable watershed analysis to provide context for design and assessment of the project.
- References to ACS objectives in the standards and guidelines in Sections C and D do not require that decision makers find that site-scale projects, in themselves, will fully attain ACS objectives.

The DSEIS states that:

“The purpose of the proposed action is to improve agency success in planning and implementing projects that follow Northwest Forest Plan principles, including a predictable and sustainable timber supply. Northwest Forest Plan goals cannot be achieved without project implementation.”

The DSEIS also states that the proposed action does not change the goals of the NWFP, and that all components of the ACS, including the objectives, are preserved.

NOAA Fisheries' Review

Recommendation: The DSEIS (Page 18, Proposed Action) states: "To follow the ACS at the site-scale, decision makers must demonstrate that projects comply with standards and guidelines in Sections C and D." The DSEIS continues "The project record will demonstrate how the agency used relevant information from applicable watershed analysis to provide context for the design and site-specific assessment of the project...." NOAA Fisheries recommends that these two passages be augmented to more clearly delineate the role of watershed analysis, *in conjunction with* the standards and guidelines, in ensuring consistency with the ACS and thus attainment of ACS objectives over time. The final wording in this section of the SEIS should provide a clearer discussion of the role of ACS objectives within the context of the overall strategic plan (ACS), as well as the role of watershed analysis and the standards and guidelines in assuring ACS consistency at the project level relative to the relationship between project design and assessment and attainment of ACS objectives. We recommend that this discussion (possibly with examples of how project-level ACS consistency would be ensured under the proposed action) be included in the Final SEIS. NOAA Fisheries staff are available, and would be pleased to work with the ACS EIS team in developing this discussion.

Conclusion: We concur that the proposed action will meet its intent by: (1) Clarifying the role of section C and D standards and guidelines in following the ACS; (2) reducing delay or stoppage of watershed restoration and vegetation management projects; and (3) promoting watershed recovery rates closer to those anticipated in the NWFP. We also believe that this action will not result in environmental impacts beyond those already disclosed in the Northwest Forest Plan Final Supplemental Environmental Impact Statement.

Finally, the proposed action provides a formalized mechanism whereby action agency line officers will assess project-level ACS consistency (*i.e.* implementation of applicable standards and guidelines, and use of appropriate information in watershed analyses). Thus, we believe that the proposed action will result in more consistent and better documented ACS consistency determinations, greater certainty that projects will not "retard or prevent attainment of ACS objectives", and thus greater certainty that ACS objectives will be attained over time.

As stated in the DSEIS, NOAA Fisheries is working cooperatively with interested Federal agencies to develop Endangered Species Act consultation documents and processes that complement the proposed action described above. We look forward to our continued involvement in those activities as well as our involvement in completion of a Final SEIS.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10
1200 Sixth Avenue
Seattle, Washington 98101

A-291

Reply To
Attn Of: ECO-088

JUL 10 2003

02-080-AFS

ACS EIS
P. O. Box 221090
Salt Lake City UT 84122-1090
Attn. Joyce Casey, Team Leader

Dear Ms. Casey:

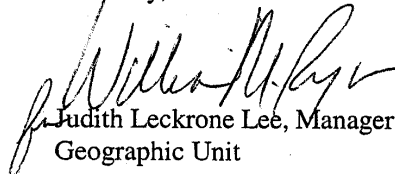
We have reviewed the draft Supplemental Environmental Impact Statement (EIS) for the proposed **Clarification of Language in the 1994 Record of Decision for the Northwest Forest Plan; National Forests and Bureau of Land Management Districts Within the Range of the Spotted Owl, Western Oregon and Washington; and Northwestern California.** We have conducted this review in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act.

The draft EIS examines two alternatives, the proposed action and no-action. The proposed action consists of amending the Aquatic Conservation Strategy (The Strategy) portions of Resource Management Plans in the Northwest Forest Plan (NWFP) area to clarify that while all projects in the area would still be required to comply with the applicable standards and guidelines from the Record of Decision (ROD), there would no additional site-scale determinations of consistency with the Strategy guidelines.

We have rated the EIS, LO (Lack of Objections). We have identified a few areas where the EIS could be clearer in the discussion of alternatives and environmental impacts, but we believe that the purpose and need for the action, to resolve current confusion about evaluating progress toward achievement of the NWFP Strategy, will help to improve management of aquatic resources in the NWFP area.

This rating and a summary of our comments will be published in the *Federal Register*. A copy of the rating system used in conducting our review is enclosed for your reference. Thank you for the opportunity to review this draft EIS. If you would like to discuss these issues, please contact Jonathan Freedman at (206) 553-0266.

Sincerely,


Judith Leckrone Lee, Manager
Geographic Unit

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Enclosures

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**EPA's Detailed Comments on the Draft EIS for the Clarification of Language in the
1994 Record of Decision for the Northwest Forest Plan; National Forests and Bureau of
Land Management Districts Within the Range of the Spotted Owl**

Purpose and Need

The Purpose and Need chapter has clearly established the underlying need; there is more than adequate background information describing the present difficulties with language in several portions of the Strategy. This language has resulted in the interpretation that even small projects with long-term benefit which result in minimal, short-term site disturbance could be delayed because they could be seen as inconsistent with the Strategy. The discussion in the EIS makes it clear that this was not the lead agencies' intent in crafting the Strategy.

This chapter, however, needs a more specific statement of purpose that addresses the underlying need. The purpose statement shown on Page 10 is quite general. We believe that a clearer, but still concise purpose statement in this chapter would place clear boundaries on the action and help set an appropriate range of alternatives for consideration and analysis in the following chapters of the EIS.

Alternatives

On page 21 of the Section "Alternatives Considered but Eliminated from Detailed Study," the EIS states that an alternative (No Cutting or Removal of Trees Older Than 80 years) was eliminated because it does not respond to the Need for Action. However, it remains unclear *why* the lead agencies believe this would not respond to the need for action. An explanation that answers this question should be added to the EIS.

In the discussion of Streamline Procedures for Planning Restoration Activities, the EIS states, "Applying different approaches to the ACS to different types of projects has no valid rationale and would not resolve ambiguities within the current language." While EPA acknowledges that it would not resolve the language ambiguities, we respectfully disagree with the first part of this statement. There appears to be a rationale to apply different approaches to different types of projects: restoration projects differ sharply in purpose from logging and extractive activities and may be more likely as a group to meet the long term goals of the Strategy. This alternative, however, may be better characterized as being unworkable because restoration activities are often incorporated as parts of extractive projects, and extractive and restoration activities might also be equally unlikely to avoid short term impacts at the project site scale. Therefore, we suggest removing the words, "has no valid rationale and ...". We also recommend explaining in a little more detail why you have not chosen this alternative to analyze in the EIS.

Affected Environment

This Section adequately describes the existing regulatory environment, the Strategy, and agency decisionmaking that may have affected lands within the Northwest Forest Plan area since the 1994 ROD. This section should also more fully describe existing data on the present condition of natural resources since implementation of the Strategy. Such information might include the number, types and distribution of timber sales, restoration projects, fuel treatments, road maintenance or closures, and other timber or forest management actions. Additional

information might include comparison of data from the pre-ROD period with current data for indicators of aquatic ecosystem health as water quality, water temperature, presence or abundance of salmonids in salmon bearing streams, or other parameters that may be barometers of forest health in the NWFP area.

Environmental Consequences - Cumulative Effects

We acknowledge that the monitoring period for the Strategy has been too short to demonstrate effects and that it is very difficult to assess impacts of this proposed action or compare it to the effects of not taking action. The discussion of cumulative impacts, however, could be more clear about the predicted biological and physical impacts of implementing the clarification of language.

It may be helpful to make use of EPA's *Consideration of Cumulative Impacts in EPA Review of NEPA Documents*, which can be found on EPA's Office of Federal Activities home page at: es.epa.gov/oeca/ofa/cumula.html. The guidance states that in order to assess the adequacy of the cumulative impacts assessment, five key areas should be considered. EPA tries to assess whether the cumulative effects analysis:

1. Identifies resources if any, that are being cumulatively impacted;
2. Determines the appropriate geographic (within natural ecological boundaries) area and the time period over which the effects have occurred and will occur;
3. Looks at all past, present, and reasonably foreseeable future actions that have affected, are affecting, or would affect resources of concern;
4. Describes a benchmark or baseline;
5. Includes scientifically defensible threshold levels.

Using this framework, it might be possible to estimate an increase in projects that might occur by examining the number of projects done since implementation of the NWFP ROD (since this is a supplemental EIS, looking at all past actions would not be required) and the number of known reasonably foreseeable projects that were never completed owing to litigation. Using approximate acreage figures for projects completed and not completed, an estimated difference in impact acreage could be a starting point for discussion of effects. You may then determine how predicted impacts compare to benchmarks established during development of the NWFP and compare how these impacts may or may not exceed important threshold levels for aquatic resources.

AOC
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O & C **A-297**
ASSOCIATION OF O&C COUNTIES
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July 10, 2003

SEIS for Aquatic Conservation Strategy
PO Box 221090
Salt Lake City, UT 84122

Re: Comments on Aquatic Conservation Strategy (ACS) SEIS

Oregon's two associations of county governments strongly support clarification of the Aquatic Conservation Strategy (ACS) attached to the 1994 Record of Decision on the Northwest Forest Plan. Please accept this letter as the comments of the Association of Oregon Counties and the Association of O&C Counties on the Draft Supplemental Environmental Impact Statement (DSEIS) regarding clarification of the ACS.

The Association of O&C Counties is made up of counties in Western Oregon within which lie a special category of BLM-managed timberlands known as the Oregon and California Grant Lands. The O&C Lands are dedicated by the O&C Act of 1937, 16 USC §1181a et seq., to the production of timber for the purpose of supporting local communities. The O&C Counties are, according to statute, both the recipients of shared timber receipts from the O&C Lands and the local governments most concerned with the community economic stability promised by the O&C Act. The purpose of the Association of O&C Counties is to cooperate with the managing agencies in the development of policies for the management of these lands and to work with members of the Oregon Congressional Delegation in matters concerning national legislation and administration of federal laws affecting the O&C Lands.

The Association of Oregon Counties ("AOC") is an intergovernmental entity of Oregon's 36 counties, of which 31 have within their borders lands managed by the Forest Service. The purpose of the AOC is to represent the interests of counties and their citizens in issues involving other governments. As the coordinating authority for land use planning, Oregon's counties have a special role and interest in the use of public lands within their boundaries, both federal and state. Forest management actions by federal and state agencies also significantly affect the social, economic and environmental well being of rural communities, which look to the county governing bodies to represent their interests with state and federal governments. Counties containing Forest Service lands are also the recipients of shared timber receipts from the Forest Service Land, with such receipts dedicated by federal law to the support of schools and roads in those counties.

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